

## Pwyllgor Cynllunio, Trwyddedu Tacsis a Hawliau Tramwy

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Man Cyfarfod  
**Siambwr y Cyngor - Neuadd y Sir,  
Llandrindod, Powys**

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Dyddiad y Cyfarfod  
**Dydd Gwener, 15 Rhagfyr 2017**

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Neuadd Y Sir  
Llandrindod  
Powys  
LD1 5LG

Amser y Cyfarfod  
**9.30 am neu'n ddiweddarach, ar  
ddychweliad y pwyllgor o'r ymweliad  
safle.**

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I gael rhagor o wybodaeth cysylltwch â  
**Carol Johnson**  
01597826206  
carol.johnson@powys.gov.uk

Dyddiad Cyhoeddi

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Mae croeso i'r rhai sy'n cymryd rhan ddefnyddio'r Gymraeg. Os hoffech chi siarad Cymraeg yn y cyfarfod, gofynnwn i chi roi gwybod i ni erbyn hanner dydd ddau ddiwrnod cyn y cyfarfod

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### AGENDA

<b>1.</b>	<b>YMDDIHEURIADAU</b>
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Derbyn ymddiheuriadau am absenoldeb.

<b>2.</b>	<b>DATGANIADAU O DDIDDORDEB</b>
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Derbyn datganiadau o ddiddordeb mewn perthynas â'r eitem nesaf.

<b>3.</b>	<b>FFORWM MYNEDIAD LLEOL - PENODI CYNRYCHIOLYDD O'R CYNGOR</b>
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Ystyried penodi Aelod i Fforwm Mynediad Lleol Powys.

(Tudalennau 1 - 6)

<b>4.</b>	<b>DATGANIADAU O DDIDDORDEB</b>
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(a) Derbyn unrhyw ddatganiadau o ddiddordeb gan aelodau mewn perthynas ag eitemau sydd i'w hystyried ar yr agenda.

(b) Derbyn ceisiadau gan aelodau i gofnodi eu haelodaeth ar gynghorau tref neu gymuned lle cafwyd trafodaeth ar faterion sydd i'w trafod gan y Pwyllgor hwn.

(c) Derbyn datganiadau gan Aelodau'r Pwyllgor y byddant yn gweithredu fel 'Cynrychiolydd Lleol' mewn perthynas â chais unigol sy'n cael ei ystyried gan y Pwyllgor.

(d) Nodi manylion aelodau'r Cyngor Sir (sydd ddim yn aelodau'r Pwyllgor) a fydd yn gweithredu fel 'Cynrychiolydd Lleol' o ran cais unigol sy'n cael ei ystyried gan y Pwyllgor.

<b>5.</b>	<b>CEISIADAU CYNLLUNIO I'W HYSTYRIED GAN Y PWYLLGOR.</b>
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Ystyried adroddiadau'r Pennaeth Gwasanaethau Adfywio a Rheoleiddio a gwneud unrhyw benderfyniadau angenrheidiol ar hynny.

**5.1. Diweddariadau**

Bydd unrhyw ddiweddariadau yn cael eu hychwanegu i'r Agenda, fel Pecyn Atodol, lle bynnag mae hynny'n bosibl, cyn y cyfarfod.

(Tudalennau 7 - 16)

**5.2. P/2017/0696 Lomond, Ceri, y Drenewydd, Powys, SY16 4N**

(Tudalennau 17 - 44)

**5.3. P/2017/0702 Tir gyferbyn a'r Hen Ficerdy, Llansillin, Croesoswallt, Powys, SY10 7PX**

(Tudalennau 45 - 74)

**5.4. P/2017/0910 Tir wrth ymyl Rose Hill, Kingswood Lane, Ffordun, y Trallwng, Powys SY21 8TR**

(Tudalennau 75 - 94)

**5.5. P/2017/1128 Tir wrth ymyl Highlea, Peartree Lane, Llanfair Caereinion, y Trallwng, Powys, SY21 0BH.**

(Tudalennau 95 - 114)

**5.6. VAR/2017/0021 Maes Carafanau Bryn Uchel Isaf, Cwmllinau, Machynlleth, Powys, SY20 9PE**

(Tudalennau 115 - 122)

- 5.7. **P/2017/0692 Tir wrth ymyl Llwynderw, Bwlch y Cibau, Powys SY22 5LN**  
(Tudalennau 123 - 148)
- 5.8. **P/2017/0170 Tir wrth ymyl Peartree Lane, Llanfair Caereinion, Powys SY21 0BH**  
(Tudalennau 149 - 180)
- 5.9. **P/2017/1217 Tir wrth ymyl Maes Hyfryd, Llanfair Caereinion, Y Trallwng, Powys, SY21 0RY**  
(Tudalennau 181 - 208)
- 5.10. **P/2017/1191 Tir wrth ymyl Hen Efail, Foel, Y Trallwng, Powys, SY21 0PU**  
(Tudalennau 209 - 232)
- 5.11. **P/2017/0620 Tir wrth ymyl Moorhays, Rhosgoch, Llanfair-ym-Muallt, Powys, LD2 3JY**  
(Tudalennau 233 - 264)
- 5.12. **P/2017/1184 Tir ger Tyffos Hendomen, Trefaldwyn, Powys SY15 6EZ**  
(Tudalennau 265 - 286)
- 5.13. **P/2017/1071 Tir yn Rhiwhiriaeth Isaf, Llanfair Caereinion, Y Trallwng, Powys, SY21 0DU**  
(Tudalennau 287 - 320)
- 5.14. **P/2017/1129 Tree Tops, Ffordd Milford, Y Drenewydd, Powys, SY16 3AR**  
(Tudalennau 321 - 330)

<b>6.</b>	<b>PENDERFYNIADAU APEL</b>
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Derbyn penderfyniadau'r Arolygydd Cynllunio ynglyn â nifer o apeliadau.  
(Tudalennau 331 - 340)



## CYNGOR SIR POWYS COUNTY COUNCIL

### PLANNING, TAXI LICENSING AND RIGHTS OF WAY COMMITTEE 15 December, 2017

**REPORT BY:** Portfolio Holder Housing and Countryside and Head of Leisure and Recreation

**SUBJECT:** Local Access Forum [LAF] – appointment of a Council representative

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**REPORT FOR:** Decision

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#### 1. Background

The functions of the Local Access Forum is to advise the Council, the Natural Resources Wales, the Welsh Government and other bodies exercising functions under Part I of the Countryside & Rights of Way Act 2000 [CROW Act], as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area. These bodies must, by law, have regard to relevant advice given by the Forum.

Powys County Council is currently seeking the appointment of a Council representative (outside of the Brecon Beacons National Park), as required by s.94 and s.95 of the CROW Act.

The Council seeks to convene the Forum meetings at least three times a year, but not to exceed four meetings a year (including a site visit), at a time and place to be agreed by the Forum members. It is anticipated that site visits will take place where it is considered to be relevant and beneficial.

#### 2. Areas of Work

The LAFs will advise upon aspects of open-air recreation in the area, including public rights of way, the right of access to open country, WG woodland estate, registered common land, parks and amenity areas. The Forum will consider areas of work put forward as business by the Council and Natural Resources Wales and by the LAF itself.

The LAF also recommends permissive access arrangements for the Glastir agri-environment scheme upon a submitted application.

A work programme will be provided to provide advice on specific projects, for which a big aspect will be to advise on the review of the Rights of Way Improvement Plan which is currently taking place. Specific advice that Countryside Services wishes advice on from the

LAF may also be required. The LAF's Terms of Reference are given in Appendix A.

### 3. Selection Process

It has been agreed that the selection of a Council representative should be nominated from the Planning, Rights of Way and Licencing Committee. It is not considered suitable for the portfolio holder to be specifically selected to represent and the Council on the Local Access Forum, in the interests of transparency and ensure there is no conflict of interest between advice received and any forthcoming decisions based on that advice. County Councillor M Barnes was appointed as the Council representative in June, 2017. As he has now resigned from the Planning, Rights of Way and Licencing Committee, a new appointment is now required.

### 4. Criteria for Selection for LAF members

The following is a list of criteria against which applications have been judged. However, applicants will not necessarily have to comply with all of the criteria to be successful.

#### Essential criteria

It is essential that a LAF member who will be appointed for three years will:

- a) be committed to the function of the Forum:
- b) be willing and able to play a full part in all aspects of a LAFs work - persons who are only willing or able to represent a narrow specific interest may not be suitable members;

#### Desirable criteria

It is desirable that a LAF member who will be appointed for three years will:

- a) have a wide range of experience of access and open-air recreation issues in the area;
- b) have experience of working on, and contributing to, similar Forums in the past;
- c) reside in, be particularly familiar with, or have any other interests especially relevant to, the area of the Forum;
- d) be able to network with a wide range of organisations and individuals, with an aim to disseminating the LAFs work

- e) be able to attend all meetings of the Forum (deputies will not be permitted).
- f) These are unpaid positions but Forum members will be able to claim reasonable expenses.

<b>Recommendation</b>	<b>Reason for recommendation</b>
<b>To appoint a member of the Planning, Taxi Licensing and Rights of Way Committee to the Local Access Forum for a period of three years.</b>	<b>To ensure that the Council is represented on the Local Access Forum.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>

<b>Relevant Local Member(s):</b>	<b>N/A</b>
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<b>Person(s) To Implement Decision:</b>	<b>Mark Stafford-Tolley</b>
<b>Date By When Decision To Be Implemented:</b>	<b>15 December, 2017</b>

Contact Officer: Mark Stafford-Tolley Tel: 01597 827677 Email: mark.stafford-tolley@powys.gov.uk
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**Terms of Reference**

**Title**

1. The Local Access Forum shall be known as the Powys Local Access Forum (PLAF). The area of the Powys Local Access Forum is the land and water designated as Powys County Council (excluding the Brecon Beacons National Park Authority).

**Roles and Responsibilities**

2. The primary purpose of the PLAF is to provide statutory advice to Powys County Council (PCC), Natural Resources Wales (NRW), Welsh Government and others as appropriate as to the improvement of public access to land and water for the purposes of open-air recreation and the local public rights of way. Advice given should take account of land management, social, economic, environmental and educational interests.
3. The PLAF will fulfil this role by advising on issues of particular local relevance, including:
  - a. supporting the implementation of the right of access to open countryside;
  - b. maintaining and improving the public rights of way network; and
  - c. developing recreation and access strategies that cater for everyone.
4. The PLAF will work to:
  - a. develop a constructive and inclusive approach to the improvement of recreational access to the countryside;
  - b. respect local circumstances and different interests whilst operating within national guidance;
  - c. provide advice on issues of principle and good practice;
  - d. engage in constructive debate and seek consensus wherever possible; and
  - e. where consensus is not possible, make clear the nature of differing views, and suggest how they might be resolved.

**Membership**

5. The PLAF members will be appointed by PCC (the Appointing Authority) in accordance with the Countryside Access (Local Access Forums)(Wales) Regulations, 2001(The Regulations).
6. The membership will:
  - a. be balanced to avoid dominance by any single interest;
  - b. include users of local rights of way;
  - c. include owners and occupiers of access land or land where there are local rights of way;
  - d. represent a cross-section of interests in the area; and



- e. live or work within the area or have a sound knowledge of the area.
7. Members will be expected to:
- a. adhere to the sections relating to LAFs in the CROW Act and regulations made under the Act and these Terms of Reference;
  - b. show commitment to achieving the aims of the PLAF through constructive working with other members and organisations that it advises;
  - c. be able to devote the necessary time to attend meetings and to network outside meetings;
  - d. have sufficient experience of access to the countryside in the local area to be able to make an informed and constructive contribution to improving access provision; and
  - e. be capable of working with a wide range of interest groups.

### **Election of Chair and Deputy Chair**

8. The Chair and Deputy Chair will be elected for a period of 12 months (using the system described in Regulation 12 of the Regulations\*) at the first meeting of the PLAF. The first item of business to be conducted at the meeting following each 12 month period will be the election of the Chair and Deputy Chair.

### **Administration**

#### **Secretariat**

9. The PLAF will have a Secretary appointed by the Appointing Authority who will be responsible for:
- a. providing support to the Chair of the Forum;
  - b. ensuring that the Forum is set up and run according to the CROW Act 2000, Countryside Access (Local Access Forums)(Wales) Regulations, 2001 and these Terms of Reference;
  - c. managing any resources dedicated to its work;
  - d. arranging and promoting meetings, including arranging the delivery of papers and information to Forum members and the public;
  - e. producing minutes of Forum meetings.
  - f. ensuring that confirmed PLAF minutes are presented on the PCC website;
  - g. publicising the work of the PLAF as far as is reasonably practicable.

#### **Meetings**

10. Meetings will be held at least three times a year with one site visit per year.

11. The Quorum for the Forum will be 5.
12. Meeting agendas will be drawn up by the Secretary in consultation with the Chair and Deputy Chair - although any member may suggest agenda items for consideration through the Chair.
13. Meetings will be advertised in advance and the minutes published on the PCC web site.
14. The Chair will invite observers/advisors to the meeting when appropriate.
15. Observers/advisors will be able to contribute to the proceedings at the discretion of the Chair.
16. One representative of Natural Resources Wales and any Council Officer will automatically have observer status.
17. If necessary, PLAF committees will be set up by the Chair after agreement with the members. The chairing, membership, and terms of reference of committees will be agreed by the Chair and members.
18. All meetings of the PLAF will be held in public. However, the person presiding, following a request from a member or members, may decide that the public should be excluded for particular items for reasons of personal privacy or commercial confidentiality.

# 5.2

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2017/0696

**Grid Ref:** 314810.6  
289750.3

**Community Council:** Kerry

**Valid Date:** 27/06/2017  
**Officer:** Rachel Mulholland

**Applicant:** Mr & Mrs Bebb, Common Road, Upper Common, Kerry, Newtown, Powys, SY16 4NY.

**Location:** Lomond, Kerry, Newtown, Powys, SY16 4NY.

**Proposal:** Outline - Residential development of 5 dwellings including replacement of an existing dwelling, formation of access, highway improvement and all associated works (some matters reserved).

**Application Type:** Application for Outline Planning Permission

### The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan and is recommended for approval.

### Site Location and Description

The application site lies partly within the settlement development boundary of Kerry as defined by the Powys Unitary Development Plan (2010) with the rear section of the site falling outside of the boundary. The application site is located to the south of Kerry on Common Road. The site is to be accessed via an existing access from the C2012 county highway to the east which is to be upgraded. The site has neighbouring residential dwellings to the north, east and south with agricultural fields to the west.

This application represents a departure from the current Unitary Development Plan and seeks outline consent for the erection of five dwellings including the replacement of an existing dwelling, formation of access, highway improvement and all associated works. This outline application is made with all matters except access reserved. An indicative layout of the site and scale of the proposed dwellings are given.

### Consultee Response

Kerry CC

*Correspondence received 29<sup>th</sup> July 2017*

Council wishes to reiterate their response made in PCC's Consultation Pack on Candidate Sites and Community Needs made on the 7<sup>th</sup> May 2013.

Ref; CS number 662, Land at Lomond, Common Road, under the heading, Known Issues the state,  
Problems for traffic at the junction of Common Road and the A489. Narrow road already carrying a large amount of traffic.

Kerry Community council also wishes to draw your attention to the following additional concerns;

- Water reclamation
- That 4 of the proposed buildings fall outside the Community Boundary.

### PCC Highways

*Correspondence received 2<sup>nd</sup> October 2017*

The Highway Authority for the Class III C2012 recommends the following conditions:

The proposed development of 5 new dwellings on the application site includes highway related infrastructure improvements that will provide a degree of benefit to the wider community. The provision of a footway will safeguard pedestrian safety though we will require amendments to the design to reflect concerns about pedestrians emerging from behind a hedge whilst attempting to cross to the opposite footway adjacent to Chestnut View. In addition, due to the difference in ground levels there may be a requirement for a retaining structure to the rear of the proposed footway. Furthermore, whilst we have noted the concerns of residents of Kerry regarding the increased use of the junction of Common Road and the class I A489, the increase in traffic through this junction from the development will not represent a significant increase in movements.

Therefore, we would recommend that the following conditions are attached to any consent that may be issued.

Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining

carriageway. Nothing shall be planted, erected or allowed to grow on the area of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

Before any other development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering drawings for all highway related infrastructure which shall include details of the carriageway widening, new footway and any retaining structure to the rear of the new footway.

Prior to the occupation of any dwelling all the highway works shall be fully completed to the written satisfaction of the local planning authority.

Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### PCC Building Control

*Correspondence received 14<sup>th</sup> July 2017*

Please be aware that the proposed development will require Building Regulations approval.

#### Wales and West Utilities

*Correspondence received 24<sup>th</sup> July 2017*

Wales & West Utilities acknowledge receipt of your notice received on 12.07.2017, advising us of the proposals for:

Lomond, Kerry, Newtown, Powys, SY16 4NY

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

### Severn Trent Water

*Correspondence received 13<sup>th</sup> July 2017*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

### PCC Affordable Housing

*Correspondence received 12<sup>th</sup> July 2017*

Applications for 5 or more dwellings should provide for 30% affordable housing provision, depending on the outcome of Planning Authorities recommendations in respect of this application, it would be appropriate for us to discuss such provision with the applicant. Also, the following guidelines for affordable housing provision will need to be adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9 sites.

*Correspondence received 6<sup>th</sup> October 2017*

I can confirm we are happy to accept the provision of one affordable dwelling as part of this scheme, subject to the provisions referred to in my earlier consultation response.

#### PCC Ecologist

*Correspondence received 4<sup>th</sup> August 2017*

I have reviewed the proposed plans, streetview images and site photographs of the proposed site for the developments and surrounding habitats as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 84 records of protected and priority species within 500m of the proposed development – no records were for the site itself.

There are no statutory or non-statutory designated sites present within 500m of the proposed development.

The proposed site for development is an area of improved grassland, hedgerows and scattered mature trees.

The well-established hedgerow boundary along with the trees noted on site could potentially form part of a corridor of habitat of high ecological value.

No ecology information has been submitted as part of the application.

#### Habitat Phase 1 and Protected Species Survey

An extended Phase 1 habitat survey will need to be undertaken to identify the habitats present on and adjacent to the site and potential to support protected species as well as the presence of invasive non-native species.

Therefore it is considered that there is insufficient information with regard to potential impacts to protected or priority species and habitats to determine this application. Further information is required to be submitted prior to determination of the application.

The ecological assessment should evaluate the potential impacts of the proposed developments on protected and/or notable species, such as species of conservation concern and locally important species listed in the Powys BAP.

It is important to note that further surveys following National guidelines at the appropriate time of year maybe be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

If any mitigation and/or compensation strategies proposed for the development, full details must be provided with the planning application and where appropriate clearly illustrated on the proposed plans.

As the proposed development involves demolition of the existing dwelling at the site.

The existing dwelling that is proposed to be demolished as part of the development should be given consideration to support roosting bats – bats being a European Protected Species.

Having reviewed available photographs of the building affected by the proposals it is considered that there may be potential for bats to be present and affected by the proposed development. Bat roosts are often associated with roofs, both internally using the loft void and externally, particularly utilising suitable roosting opportunities associated with the ridge and edges of the roofs, as well as features associated with gable ends including hanging tiles.

Therefore, further information to enable assessment of the building that will be demolished for its bat roost potential and the potential for any impacts is required, this could take the form of –

- A preliminary bat assessment by a suitably qualified and experienced ecologist

If the preliminary bat roost assessment identifies potential bat roosting opportunities and/or actual bat roosts that will be affected by the proposals then further bat survey work will be required.

Bat activity surveys will need to be undertaken in accordance with Powys County Council's planning application guidance note (Powys Bat Survey Guidance 2009) and the Bat Conservation Trust's Bat Surveys for Professional Ecologists – Good Practice Guidelines 3rd Edition, 2016. Therefore, the survey should be undertaken by suitably licensed and qualified ecologists and comprise a thorough internal and external inspection and three activity surveys; two dusk surveys and a dawn survey during the recognised activity season May – September, the surveys should be spread throughout the activity season (as far as reasonably possible to do so) to allow a broad picture of any bat roost use of the site to be developed. Where deviations from the standard guidelines are considered to be necessary, full justifications for the methods used will be required.

If bats are found to be using the building for roosting purposes and there is potential for the roost to be destroyed or disturbed i.e. an offence is likely to be committed a European protected species licence would be required to allow the works to proceed, as part of the planning process the Local Planning Authority must establish whether the three tests as defined by the Conservation of Habitats and Species Regulations 2010 (as amended) have been met prior to determining the application. If the Wildlife Licensing Unit at Natural Resources Wales (NRW) is also happy that these Tests have been satisfied, then an EPS development licence can be granted.

The three tests that must be satisfied are:

1. That the development is “in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment”.
2. That there is “no satisfactory alternative”
3. That the derogation is “not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range”



In order to address the 3rd test appropriate mitigation would need to be identified. The proposed mitigation will need to be located in a suitable location and appropriate to the species identified. Mitigation details need to be clearly illustrated on the architectural plans and must provide sufficient detail to enable them to be subject to a planning condition/s106 agreement.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Details of ecological consultants working in Powys can be found at <http://www.cieem.net/members-directory> (please note this is not a Powys County Council approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). I have also attached some guidance notes regarding commissioning ecological consultants to undertake survey work.

#### Tree and Hedgerow Protection Plan

Hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows and linear tree features are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that 'Proposals which are acceptable in principal should:  
3. Seek to conserve native woodlands, trees and hedgerows'

Should the proposals require the removal of any hedgerows or trees to accommodate the proposed development including creation of new access or any associated works then appropriate compensation in line with the requirements of UDP Policies ENV2 and ENV6 will need to be provided.

In addition given the proximity of development works to surrounding trees and hedgerows, it is considered prudent to require information from the applicant as to how these features of biodiversity importance for wildlife will be protected during the construction period of works. This information could be secured through a planning condition, however the submission of a Tree and Hedgerow Protection Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

Where impacts to hedgerows or trees are identified an appropriate compensation strategy will be required, where possible translocation of existing hedgerows should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified – details of the location, length and species as well as an appropriate aftercare

scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

### Landscaping Planting Scheme

It is suggested in the supported planning statement that the development will provide landscaping as part of the potential development - If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules.

### Lighting

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

### Biodiversity Enhancements

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measure could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

*Correspondence received 28<sup>th</sup> November 2017*

Thank you for consulting me with regards to the additional information relating to planning application P/2017/0696.

The additional information submitted has been provided in response to a request for further survey to enable the LPA to assess the potential impacts of the proposed development to biodiversity, in particular with regards to bat species as the proposed development requires demolition of an existing dwelling.

Therefore, an Ecological Assessment Report has been undertaken to assess the potential of the development to impact to any protected species presence or habitats of ecological value, and a Bat Roost Assessment has been undertaken to assess the potential of the development to negatively impact bats – bats being European Protected Species.

I have reviewed the submitted Preliminary Ecological Appraisal and Bat Roost Assessment produced by Gerald Longley Ecological Consultants dated 02 November 2017, I consider that the survey effort employed was in accordance with National Guidelines.

The Survey consisted of a combination of desktop searches and a site visit which took place on the 2nd November 2017 to carry out an extended phase 1 habitat survey and bat roost assessment.

#### Habitats Recorded on Site

The site that is proposed to be development is approximately 0.47ha of part improved grassland with a bungalow, driveway and small garden (amenity grassland). It is noted that immediately to the west of the development is un-improved pasture grassland which forms part of the same field where the developments are proposed. Hedgerows noted on part of the north boundary, east boundary and western boundary (off site). The hedgerow on the western boundary is noted as being "important" under the ecological criteria of the Hedgerows Regulations 1997.

The improved grassland is considered to be of low ecological value. However, the hedgerow boundaries are considered to be of high ecological value as well as the two mature oak trees in the northern boundary.

#### Bat Roost Assessment of the existing Dwelling and Trees

The existing dwelling that is proposed to be demolition as part of the development is a bungalow with garage and adjacent outside toilet building. The assessment of potential bat roosting and bird nesting sites both internally and externally was undertaken. It was noted that there were potential access points for bats through holes under the eaves on the east and west walls of the bungalow where the garage joined the main dwelling. The roof is in good condition with few noted possible access points. Small section of missing mortar on the southwest hip of the roof were also noted as possible access points as well as gaps where mortar has fallen between bricks on the chimney. Access points for bats were also noted on the garage and adjacent outbuilding through open doors. The habitat surrounding the existing property was considered to be good, well connected foraging habitat for bats.

No evidence of bats were recorded during the assessment.

No bird nests were recorded on the outside or inside of the existing property – nesting birds being European Protected Species. However, there was a dead house sparrow in the garage.

The two mature Oak trees on the northern boundary of the site were recorded as having potential roosting features for bats with cracks and crevices in branches. A mature ash and

oak 'off-site' on the field boundary to the west also offered good potential roosting places for bats.

No protected species or non-native invasive species were recorded during the survey being undertaken. The site was considered to be unsuitable to support otter, water vole, dormice and reptiles. However, the hedgerow boundaries within (and offsite) offer good feeding and nesting habitat for birds. Even though no ponds were recorded on the proposed development site or within 250m the improved grassland was considered to be good foraging habitat. No amphibians were recorded during the survey, but limited potential for refuge within the hedgerow and brash was noted.

Within section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report measures have been recommended to ensure no significant negative impacts are occurred to the species identified as possibly utilising the proposed development site. The mitigation measures include;

- Hedgerow on the northern and eastern boundary protected during the development
- New native species hedgerow to be planted on western and southern boundary
- Two Oak trees on northern boundary to be protected during development.
- Provision of bat roosting features to be incorporated in the new dwellings proposed
- Provision of house sparrow nesting boxes in the final design scheme
- Ecological principles to follow in the development;
  - Tool box talk
  - Contingency if protected species discovered during construction
  - Vegetation clearance cutting/pruning/felling to be carried out oct-feb
  - Boundaries (fences/walls) should not seal to the ground and should contain holes for wildlife movements
  - Post construction ecological survey

Given the identified recommended working measures in section 5.0 of the Preliminary Ecological Appraisal and Bat Roost Assessment I consider that the proposed developments will not result in the loss of any features of ecological importance and it is considered the proposed works are unlikely to have a significant negative impact to biodiversity in the wider area. I therefore recommend that implementation of the recommended measures are secured through an appropriately worded condition.

### Tree and Hedgerow Protection Plan

As stated within the ecological survey given the proximity of proposed development and associated works to the hedgerow boundary and trees on the development site, it is considered prudent to require information from the applicant as to how these features of biodiversity importance will be protected during the construction period of works.

The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

'Proposals which are acceptable in principle should:

3. Seek to conserve native woodlands, trees and hedgerows'

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan –

'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to tree or hedgerows are identified an appropriate compensation strategy will be required, replacement tree planting would need to be identified.

Where it is necessary to remove any trees - a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the trees present in the local area.

It is therefore recommended that a Tree Replacement and Protection Plan is secured through an appropriately worded condition

#### A Landscaping Plan

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A Landscaping Plan could be secured through a planning condition.

#### Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

Therefore should you be minded to approve the application I recommend inclusion of the following condition:

The mitigation measures in section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report produced by Gerald Longley Ecological Consultants dated November 2017 shall be adhered to and implemented in full and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and

implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

Prior to commencement of development a detailed lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Cllr K Roberts-Jones

*Correspondence received 20<sup>th</sup> July 2017*

I have a great concern regarding this application and would ask that it be a committee decision the main reason if access and highway safety.

PCC Environmental Health

*Correspondence received 21<sup>st</sup> July 2017*

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.

## **Representations**

Following display of a site notice on 21/07/2017 and publicity in the local press on 21/07/2017 nine letters of objection have been received which can be summarised as follows:

- Concerns over highway safety
- The development is partially outside of the settlement boundary for Kerry
- Sustainability of the area
- Impact on the amenities of nearby properties
- Impact on nearby property values
- Impact on views enjoyed by existing properties
- Flood risk and drainage concerns

## **Principal Planning Policies**

### National Policies

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 1 – Joint Housing Land Availability Study (2015)

Technical Advice Note (TAN) 5 – Nature Conservation and Planning (2009)

Technical Advice Note (TAN) 12 – Design (2016)

Technical Advice Note 15 – Development and Flood Risk (2004)

Technical Advice Note (TAN) 18 – Transport (2007)

Technical Advice Note (TAN) 20 – Planning and the Welsh Language (2013)

Technical Advice Note (TAN) 23 – Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

Welsh Office Circular 13/97 - Planning Obligations

### Local Policies

Powys Unitary Development Plan 2010

SP5 – Housing Developments

SP6 – Development and Transport

GP1 – Development Control

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV7 – Protected Species

HP3 – Housing Land Availability

HP4 – Settlement Development Boundaries and Capacities  
HP5 – Residential Development  
HP11 – Replacement of Habitable Dwellings  
DC3 – External Lighting  
DC8 – Public Water Supply  
DC12 – Mains Sewage Treatment  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

The application site lies partly outside of the settlement development boundary identified in the Powys Unitary Development Plan (2010). Outside of settlement boundaries, UDP Policy HP4 applies and states that '*outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9*'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Replacement Dwelling

Policy HP11 of the Powys Unitary Development Plan sets out the criteria to be met for development proposals for replacement dwellings. The existing dwelling must be a recognised habitable dwelling and as a result of the proposal would not result in the loss of a building of special architectural and/or historic interest or local character. The existing dwelling must be substantially intact and not beyond repair. The proposed new dwelling must be on the footprint of the original dwelling or adjacent to it and not result in an increase of more than 15% of the original dwelling unless a change in its orientation, location or scale represents and improvement in planning terms.

Whilst layout and scale are not to be considered as part of this application process, it is considered that a replacement dwelling which meets the requirements of the above policy can be achieved on the site within the curtilage of the existing dwelling.

### Housing Land Supply



The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

The development site is located partly within the settlement of Kerry. This is identified in the UDP as a key settlement and is served by a range of community services and facilities including two primary schools, a community centre, a shop/post office, church, public houses, playing field, bowling green, car park, public toilets, a football pitch and a bus stop with regular bus services to Newtown and Welshpool. The application site is located approximately 3 miles from Newtown.

Concerns have been raised by local objectors over the sustainability of the area and the ability of Kerry to accommodate further dwellings. Kerry is identified as a key settlement in the Powys UDP which states that the settlement has the capacity to accommodate additional development. The UDP states that on allocated sites it is estimated that 60 dwellings would be an appropriate level of growth within the plan period but that further opportunities for infill development may exist.

In light of the range of services located within walking distance of the development site, Officers consider that there is an argument to support the principle of residential development at this location given its siting partly within and adjoining the defined settlement. Therefore, the proposed site is considered to be a sustainable location for residential development of 5 dwellings.

### Affordable dwelling

The proposed development includes the provision of one affordable dwelling. As the proposal includes a provision for affordable housing, the permission will be limited such that the affordable dwelling shall not have an internal floor area greater than 130sq.m and permitted development rights will be removed.

The plans do demonstrate that the affordable dwelling (indicated as plot 2 on the indicative site layout) will have a curtilage of less than 600 square metres which accords with the provisions of the Council's Affordable Housing Supplementary Planning Guidance.

The permission will also need to be controlled via a condition to ensure that the occupancy and resale of the affordable dwelling is controlled in line with the council's affordable housing policies.

Subject to the use of such conditions, the proposal is considered to accord with planning policies HP9, HP10 and the Council's affordable housing SPG.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the five dwellings proposed are to be detached properties either single storey or dormer bungalow style in construction.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating five dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling on plot 5 to the northwest of the site will be located approximately 23 metres distant from the nearest neighbouring dwelling to the north with a garage and access lane between; the dwelling on plot 1 to the northeast of the site will be located approximately 24 metres from the nearest neighbouring dwelling to the north with the access road between; and the dwelling on plot 4 to the southwest of the site will be located approximately 20 metres from the nearest neighbouring dwelling to the south. The existing properties on Common road to the east of the site are located at distances greater than 20 metres from the proposed dwellings with the county highway between. Due to the suggested distances and positioning of the dwellings it is not considered that the proposed development will adversely affect the amenities of the neighbouring dwellings.

Concerns have been raised by local objectors over the impact of the development on nearby properties including through loss of daylight and loss of privacy. Guidance contained in the Powys Residential Design Guide has been used to assess this proposal and any potential impacts. This guidance, in relation to privacy, states:

*'The acceptable distance between front elevations should normally be determined by the character of road widths in the area.'*

*'Unless it can be demonstrated that privacy can be maintained through design, there should normally be a minimum separation of 20m between directly facing habitable room windows on rear elevations.'*

*'The minimum direct distance between habitable rooms on the main rear elevation (not subsidiary extensions) and the rear boundary, or flank wall of adjoining development, should normally be 10m or more.'*

The indicative site plan demonstrates that there is a minimum distance of 20 metres between each of the proposed dwellings and the nearest neighbouring dwellings as well as the county highway or access road between the frontages of the dwellings. As such it is considered that there will be no unacceptable impact on privacy to neighbouring properties.

The Residential Design Guide states in relation to daylight and sunlight:

*'In order to avoid unnecessary overshadowing, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2m.'*

With a minimum distance of 20 metres between each of the proposed dwellings and the nearest neighbouring properties, using the 25 degree rule, the maximum height of the proposed dwellings at this 20 metre distance would be approximately 11.33 metres. Whilst it is acknowledged that the site is sloping and set at a higher level than the existing properties to the east of Common Road, the dwellings are proposed to be single storey or dormer bungalow style in construction and as such it is not considered that their height would exceed this level; however, a condition has been added to this permission requiring the submission at reserved matters stage of cross sections of the application site and finished floor levels.

This layout is for indicative purposes only and the layout of the site could be altered to increase the distances between the properties if deemed necessary at any reserved matters

application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

In terms of landscaping the submission includes the retention of the existing trees and hedgerow around the edge of the site and proposes additional planting at the plot boundaries. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current open space, taking into account the location opposite and adjacent to existing dwellings and structures within the area, that landscaping measures would reduce the visual impact and that the proposed scale of three dwellings, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking. Access to the site would be gained off the C2012 via an existing access which is to be upgraded.

Concerns have been raised by local objectors and the Community Council regarding highway safety and the suitability of the junction of the C2012 (Common Road) and the A489 approximately 280 metres to the north of the site and the increase in traffic. The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested conditions listed above regarding footways, engineering drawings, parking provision and access construction methods and materials.

The Highway Officer has considered the comments of the Community Council and local objectors and has stated that the proposed development includes highway related infrastructure improvements that will provide a degree of benefit to the wider community such as the provision of a footway. The Officer has also noted the concerns raised regarding the increased use of the junction of the C2012 and the A489 but considers that the increase in traffic through this junction from the proposed development will not represent a significant increase in movements.

In light of the Highway Officer's comments, and subject to the suggested conditions, it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

## Ecology

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore the nature conservation policies in the UDP seek to safeguard and enhance biodiversity, and these objectives are also echoed in national policy (TAN5 and Planning Policy Wales).

With respect to biodiversity, specific reference is made to UDP policies ENV3, ENV4 and ENV5 which seek to maintain biodiversity and safeguard protected important sites. The Powys County Council Ecologist has been consulted on the proposed development and has provided the above comments.

The Ecologist reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. From the data search they identified 84 records of protected and priority species within 500m of the proposed development, although no records were for the site itself. It is noted that there are no statutory or non-statutory designated sites within 500m of the application site.

It was requested by the Ecologist that a Habitat Phase 1 and Protected Species Survey be undertaken and submitted to accompany the application to identify the habitats present on and adjacent to the site and the potential to support protected species as well as the presence of invasive non-native species. Additional information was submitted by the applicant in the form of a Preliminary Ecological Appraisal and Bat Roost Assessment. These have been reviewed by the Ecologist who considers that the proposed development will not result in the loss of any features of ecological importance and is unlikely to have a significant negative impact to biodiversity in the wider area. As a result of the submitted surveys the Ecologist has no objections to the proposed development subject to conditions to secure adherence to the mitigation measures identified in the ecological appraisal as well as the submission of a Tree and Hedgerow Protection and Replacement Plan, a detailed lighting design scheme and a detailed landscaping scheme. In terms of the landscaping plan it is noted that this is a reserved matter and, as such, these details will be considered at a later stage. It is, therefore, not necessary to condition the submission of a detailed landscaping scheme on this application.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions excluding the landscaping scheme, the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

## Environmental Health

With regard to foul drainage it is proposed for the development site to connect to the public foul sewerage system. Given the location of the site it is considered that this is feasible. The Council's Environmental Health Officer has been consulted on this application and has no objections to this. Severn Trent Water has also been consulted and has confirmed that they have no objections to the application subject to the inclusion of a condition requiring detailed drainage plans for the disposal of foul and surface water flows.

Due to the location of the proposed development site near to other residential properties the Environmental Health Officer has also suggested a condition to control construction-phase noise control by limiting the days and hours of demolition and construction works. Subject to this condition the Officer has no objections to the development.

Concerns have been raised by local objectors regarding the proposed drainage for the site and the flood risk; however, neither the Environmental Health Officer nor Severn Trent Water have raised any concerns or objections over these issues.

In light of the above, and subject to the suggested conditions relating to the provision of drainage plans and construction-phase noise control, it is considered that the proposed development fundamentally complies with the relevant planning policy in this regard.

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst Kerry has not been identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Kerry Ward reported that 12.9% of the population spoke Welsh. This is an increase from the 2001 census which stated that 11.6% of the population of Kerry spoke Welsh. The development of five dwellings in this settlement is considered not to have a detrimental impact on the cultural or linguistic vitality of the area.

### Public Representations

Letters of objection have been received which raised a number of concerns over the development including the matters of highways, sewerage and amenity which have been addressed in the relevant sections above.

Concerns have been raised regarding the justification for the application on the grounds of housing need, sustainability, the impact on nearby property values and loss of views to neighbouring dwellings. It is noted that loss of views and impact on property values are not planning considerations and, as such, have not been given weight when processing this application.

With regard to the concerns over sustainability and location of the site it is stated within the Powys UDP that Kerry has the capacity to accommodate additional development. It is also noted that the housing land supply is for Powys as a whole rather than individual settlements. It is also considered, after assessment of the proposals, that the application site is capable of accommodating the additional four dwellings and the replacement dwelling.

### **Other Legislative Considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **Recommendation**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

## Conditions

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no: 16128-4)
5. Development shall not commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% of housing units/bed spaces;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
6. The affordable dwelling/s shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
7. Upon the submission of the reserved matters referred to in conditions 1 and 2 above, plans detailing cross sections of the application site and finish floor levels of the



dwelling provided must be submitted to the Local Planning Authority. The scheme must be implemented as approved.

8. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the development hereby permitted remains in existence.
9. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
10. The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
11. No development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
12. Before any development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
13. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
14. Prior to the commencement of development full engineering drawings for all highway related infrastructure which shall include details of the carriageway widening, new footway and any retaining structure to the rear of the new footway, shall be submitted to and approved in writing by the Local Planning Authority.
15. Prior to the occupation of any dwelling all the highway works shall be fully completed to the written satisfaction of the Local Planning Authority.
16. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from

the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

17. No storm water drainage from the site shall be allowed to discharge onto the county highway.
18. Prior to the commencement of development detailed drainage plans for the disposal of foul and surface water flows shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as agreed and maintained thereafter.
19. No demolition or construction works shall take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.
20. The mitigation measures in section 5 of the Preliminary Ecological Appraisal and Bat Roost Assessment report produced by Gerald Longley Ecological Consultants dated November 2017 shall be adhered to and implemented in full and maintained thereafter.
21. Prior to the commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to and agreed in writing by the Local Planning Authority and implemented as approved and maintained thereafter.
22. Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife shall be submitted to and agreed in writing by the Local Planning Authority and shall be implemented as approved and maintained thereafter.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
6. In order to ensure the provision of affordable housing in accordance with policies HP5, HP7 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
7. To safeguard the character and appearance of the area in accordance with policy ENV2 of the Powys Unitary Development Plan.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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15. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
16. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
17. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
18. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
19. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
20. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
21. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.
22. To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

### **Informative Notes**

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- Intentionally kill, injure or take any wild bird
- Intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- Intentionally take or destroy the egg of any wild bird
- Intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

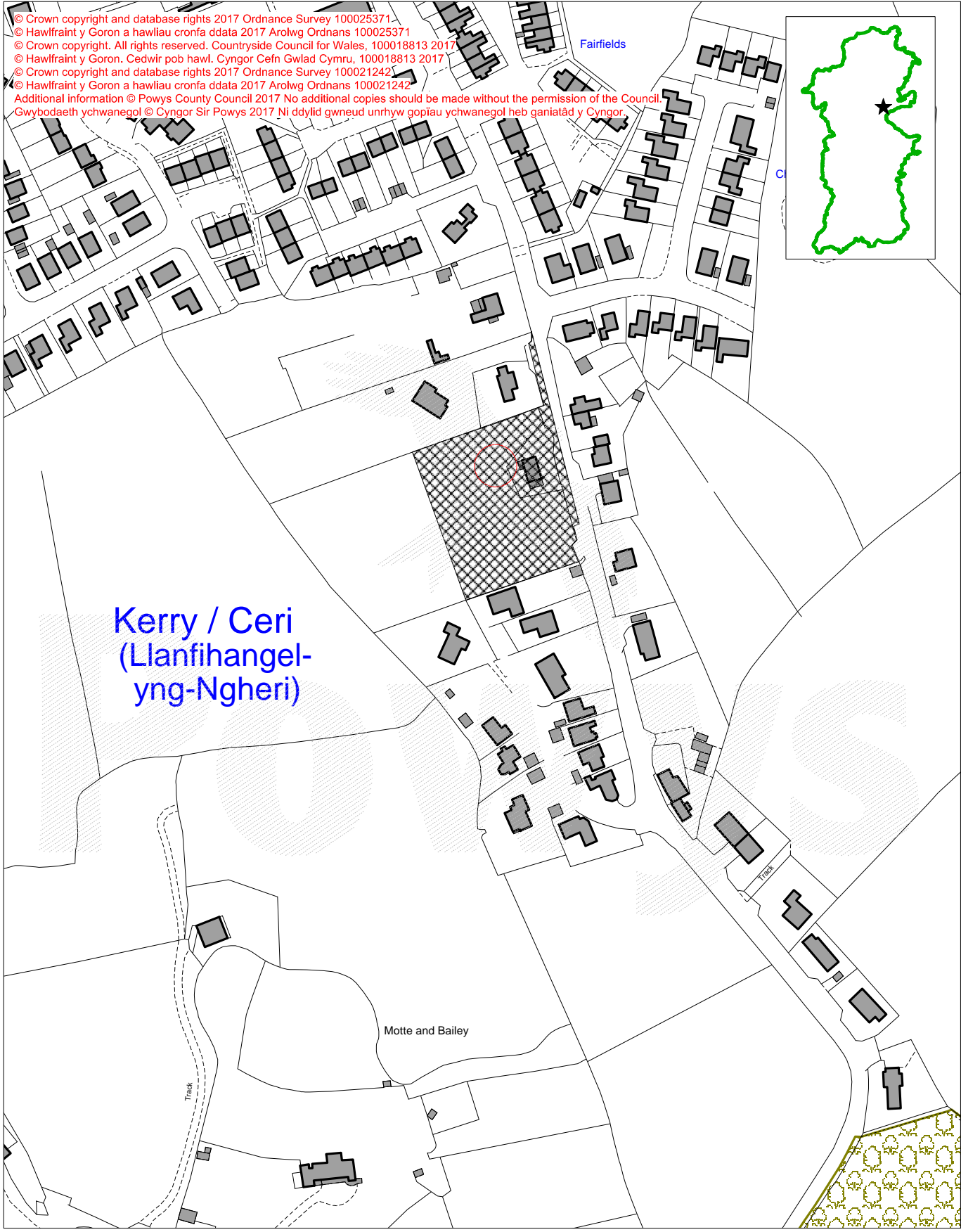
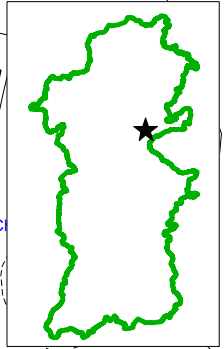
The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk).

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

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Case Officer: Rachel Mulholland- Planning Officer  
Tel: 01597 827517 E-mail: [rachel.mulholland@powys.gov.uk](mailto:rachel.mulholland@powys.gov.uk)

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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.3

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/0702	<b>Grid Ref:</b>	320901.55 328422.22
<b>Community Council:</b>	Llansilin	<b>Valid Date:</b>	<b>Officer:</b> 22/06/2017 Eddie Hrustanovic
<b>Applicant:</b>	Mr Lewis-Jones, 10b Harston, Cambridge, CB22 7BX		
<b>Location:</b>	Land Opposite The Old Vicarage, Llansillin, Oswestry, Powys, SY10 7PX		
<b>Proposal:</b>	Outline: Erection of up to 4 dwellings, formation of vehicular access, access road, and all associated works (Some matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The proposed development is a departure from the development plan and is recommended for approval.

### Site Location and Description

The site subject to this application is located adjacent to the Llansillin development boundary, therefore for the purposes of the Powys Unitary Development Plan (UDP) is defined as open countryside. Powys UDP notes that Llansilin is an attractive village with a range of community services & facilities and the capacity to accommodate additional development. Llansilin has therefore been classified as a Large Village. The designated Conservation Area incorporates the Church and historic core of the settlement. Consequently, two sites have been allocated for housing development which have been partially implemented.

The village benefits from the following facilities; Church, Primary School, Public House, Garage, Shop, Play Area and Village Hall.

The site is located on the northern side of the village on land opposite the dwelling known as the Old Vicarage, and it is currently in agricultural use. To the north, west and south west the site is bounded by agricultural fields, to the south a residential dwelling known as Bronwylfa is located, while to the east the site fronts C2205 County Highway and existing properties (The Old Vicarage, Maest Teg and Vicarage).

Consent is sought in outline for the construction of up to 4 dwellings, including a provision of a single affordable dwelling (3 open market + 1 affordable unit). The scheme also includes construction of a vehicular access and provision of pedestrian footpath to the length of the site fronting the County Highway towards the village.

## Consultee Response

### Llansillin CC

Members have held a lengthy discussion regarding this proposed development in the Village of Llansillin. Residents are also interested in the proposal as it appears on the design and plans to build large residential properties that go against our local development needs and do not respect the village development plan boundaries.

Members were in full objection to this proposed development and we give the reasons listed below;

Currently the village has 5 properties for sale and we are awaiting the commencement of the residential development for 23 dwellings. Members do not feel that there is a need for further houses of this size or cost. There are local objections to this proposal – clarification is needed regarding section 106 and local needs. It is the wrong type of development and does it mean that more affordable social housing is not necessary on smaller developments such as this type. The proposer has cited inaccurate facts in the design and access statement, for example Llansillin does not have good transport links – in fact a limited bus service that is under threat. And we do not have a post office to name a couple. We would expect that all environmental and ecological surveys will be carried out to protect our rural countryside in conjunction with a full archaeological site survey. The road has very poor drainage and regularly floods. This creates a dangerous road especially in Winter months with ICE. The field is elevated so we would expect the houses to be high up on the land. The access to this road is limited and we would be seeing an increase in traffic – the junction visibility is poor. You need to consider that the road is narrow and the high volume of agricultural traffic along this route.

### Powys Highways

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to any other works commencing on the development site, detailed engineering drawings for a footway link along the Class III C2205 & B4580, and widening along the Class III C2205 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC1 Prior to the occupation of the dwelling any entrance gates shall be set constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.



HC3 The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC13 Prior to the occupation of the development a radius of 6 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interests of highway safety.

#### Powys Building Control

Building Regulations application required.

#### Wales and West Utilities

Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry. Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

#### Severn Trent

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### Powys Environmental Health

Provided that the development connects to the mains sewage system I have no objection to the application.

#### CPAT

Thank you for the consultation relating to this application. While the development plot contains no recorded archaeological sites it does lie immediately north of the medieval historic core of the village and there are two listed buildings immediately adjacent to the proposed development site. The listed buildings include the grade II Vicarage to the east and the grade II Bronwylfa House to the south.

As the setting of a listed building is a material consideration of any planning application in accordance with Planning Policy Wales (Edition 9, 2016), Tan 24: The Historic Environment and the Cadw Conservation Principles the applicant should submit a setting impact assessment to support the application. Guidance on completing a setting assessment is included in the Cadw Best Practice Guidance for Setting Assessment and a copy is attached which should be forwarded to the applicant. A copy of the setting impact assessment report should be forwarded to me for further comment when it is received. The Powys Built heritage Conservation Officer, Debra Lewis, may also wish to comment on the setting implications of this development.

#### Powys Built Heritage

Thank you for consulting me on the above application.

I note the proposal is adjacent to a number of designated heritage assets namely;

Bronwyfya Cadw ID 0640 included on the Statutory list on 04/01/1966

The Old Vicarage Cadw ID 81918 included on the Statutory list on 25/09/2003

Capel Salem Cadw ID 23529 included on the Statutory list on 18/07/2000

The three listed buildings are of different dates and do not appear to have a relationship with each other with the exception of their location and as such I shall describe them chronologically.

Bronwyfya Cadw ID 0640 is apparently of the C17th and is reputed to be the oldest property in the village of Llansilin. The property is a box framed house later encased in stone and originally a two unit house now of one and a half storeys with its east gable to the road. There is a small windows to the south and a much lower floor and roof level and may be the shop as recorded in 1841. The proposed development would be the field directly to the north of this property, which is open farmland for some distance to the next property. However there is development on the other side of the unclassified road on the minor road N from the B4580.

The Old Vicarage Cadw ID 81918 is sited at the junction of the B4580 and the minor road that leads northwards from the junction. A vicarage appears on this site on the 1792 map, however the current building indicates a rebuild or substantial alteration in the early C19th. The property is imposing at the head of the village at an important road junction and is a 2 storey 5 window symmetrically fronted house in the Tudor style with flanking wings and a projecting porch. The windows face south towards the village and the site has substantial grounds with many mature trees.

Capel Salem is a Baptist Chapel built in 1831. The chapel is sited to the East of the minor road N from the B4580. The chapel is simply designed with unusual windows sited on the front elevation with a blank gable to the road. The windows look South East towards the village.

The site lies outside the conservation area with; Bronwyfya, Ty Silin and Tal-ardd between the site and Conservation Area.

TAN 24 advises (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and provide the basis upon which Cadw discharges certain statutory duties on behalf of the Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

1. Historic assets will be managed to sustain their values.
2. Understanding the significance of historic assets is vital.
3. The historic environment is a shared resource.
4. Everyone will be able to participate in sustaining the historic environment.
5. Decisions about change must be reasonable, transparent and consistent.
6. Documenting and learning from decisions is essential.

Applicants and other organisations are strongly encouraged to make use of these Conservation Principles when considering development proposals and other works to historic assets. It is important for those responsible to understand the heritage values and assess the significance of the historic assets that will be affected.

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset. The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets. Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

There are four heritage values which need to be understood before the significance of the asset can be assessed.

- Evidential value
- Historical value
- Aesthetic value
- Communal value

#### *Evidential Value*

This derives from those elements of an historic asset that can provide evidence about past human activity.

The site is open farmland with 4 properties adjacent. Of the adjacent properties 2 are listed, and are of significance, Bronwyfya as a large cottage with many historical and architectural features of interest which has retained its early form and construction and acquiring an interesting C19 addition with a strong vernacular character overall, and The Old Vicarage as a fine parsonage in the Tudor architectural manner of the later Regency to early Victorian period, well restored.

#### *Historical Value*

An historic asset might illustrate a particular aspect of past life or it may be associated with a notable family, person, event or movement. These illustrative or associated values of an historic asset may be less tangible than its evidential value but will often connect past people, events and aspects of life with the present and are not so easily diminished by change as evidential values and are harmed only to the extent that adaptation has obliterated them or concealed them.

Bronwyfya is a lobby entry house with strong vernacular character representing the vernacular building tradition in Montgomeryshire at the time of its construction.

The Old Vicarage was remodelled in the C19th in the fashionable Tudor Style. The property is a fine parsonage illustrating the ecclesiastical wealth of the parish at the time of its construction and the social status afforded to its occupants.

Capel Salem is in an illustration of the non-conformist movement in Wales and the Reverend John Roberts from Llansilian Anglesey the founder of the Baptist cause in the area is buried in the graveyard.

### *Aesthetic Value*

This derives from the way in which people draw sensory and intellectual stimulation from an historic asset through its form, external appearance or setting.

The site is open farmland at the edge of Llansilin adjacent to 4 properties, 2 listed, one modern (Maes Teg) and the most recent Vicarage constructed in the late C20th.

The farmland and the older listed properties evoke a sense of the past

### *Communal Value*

The third principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity. The Conservation Principles identify heritage assets as having the potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which states, " Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

TAN24 which was issued and came into effect on 31 May 2017 addresses setting with some of the factors to consider and weigh in the assessment including

- the prominence of the historic asset
- the expected lifespan of the proposed development
- the extent of tree cover and its likely longevity

- non-visual factors affecting the setting of the historic asset

Paragraph 1.26 identifies the other factors that may affect the setting of an historic asset to include inter-visibility with other historic or natural features, tranquillity, noise or other potentially polluting development though it may have little visual impact.

Powys Unitary Plan policies reflect national legislation and guidance; Powys Unitary Development Plan Policy Env14 (Listed Buildings) states that “proposals for development unacceptably adversely affecting a listed building or its setting will be refused”. UDP Policy SP3b states that “proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and heritage conservation and historic interest”. UDP Policy GP1 states “development proposals will only be permitted if they take into account the following – the design, layout, size, scale, mass and materials of the development shall complement and where possible enhance the character of the surrounding area”.

Cadw have prepared guidance on the setting of historic assets that in an annexe to TAN24 that came into effect on 31 May with advice on how to assess the setting of listed buildings. This document outlines the principles used to assess the potential impact of development or land management proposals on the settings of all historic assets but is not intended to cover the impact on the setting of the historic environment at a landscape scale.

The document advises that “Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape.....The setting of a historic asset is not fixed and can change through time as the asset and its surroundings evolve. These changes may have a negative impact on the significance of an asset; for example, the loss of the surrounding physical elements that allow an asset to be understood, or the introduction of an adjacent new development that has a major visual impact. But changes can also have a positive impact that may enhance the setting, such as the removal of traffic from part of a historic town, or the opening up of views, or the return of a sense of enclosure to sites where it has been lost”

The document provides advice on how to assess the setting

This section outlines the general principles that both assessors and decision makers should consider when assessing the impact of a proposed change or development on the setting of historic assets. There are four stages.

Stage 1: Identify the historic assets that might be affected by a proposed change or development and their significance.

Stage 2: Define and analyse the settings to understand how they contribute to the ways in which the historic assets are understood, appreciated and experienced.

Stage 3: Evaluate the potential impact of a proposed change or development on those settings.

Stage 4: Consider options to mitigate the potential impact of a proposed change or development on those settings.

It is noted that section 2.2 of Managing Setting of Listed Buildings which came into effect on 31 May advises that applicants for planning permission should provide the local planning with sufficient, but proportionate, information to allow the assessment of the likely impact of proposal for development on a historic asset and its setting. It is noted that no such assessment accompanied the application nor has been referred to in the accompanying Design and Access Statement.

The heritage assets have been identified as;

Bronwylfa Cadw ID 0640 included on the Statutory list on 04/01/1966

The Old Vicarage Cadw ID 81918 included on the Statutory list on 25/09/2003

Capel Salem Cadw ID 23529 included on the Statutory list on 18/07/2000

Cadw draft document Setting of Historic Assets in Wales advises on how to consider the setting of listed buildings. "Setting is the surroundings in which a historic asset is understood, experienced and appreciated, embracing present and past relationships to the surrounding landscape. It often extends beyond the property boundary or 'curtilage' and into the surrounding landscape or townscape. Although many historic assets are visible and their settings are obvious, those that are buried also have a setting. "

"The setting of a historic asset can include physical elements of its surroundings. These may be boundary walls, adjacent fields or functional and physical relationships with other historic assets or natural features."

The Cadw document advises on steps to be undertaken to define and analyse the setting with a series of questions.

"•How do the present surroundings contribute to our understanding and appreciation of the historic asset today?

- Thinking about when the historic asset was first built and developed:
- What were its physical, functional and visual relationships with other structures/historic assets and natural features?
- What topographic features influenced its location?
- What was its relationship to the surrounding landscape?
- Was it constructed to take advantage of significant views? Although there may be a 360 degree view, some areas of the view may be more significant than others.
  
- Thinking about changes since the historic asset was built:
- Has its function changed?
- What changes have happened to the surrounding landscape?
- Have changes happened because of changes to the historic asset?
- Has the presence of the historic asset influenced changes to the landscape, for example, where a monument has been used as a marker in the layout of a field enclosure?
- Have historic and designed views to and from the historic asset changed?
  
- Thinking about the original layout of the historic asset and its relationship to its associated landscape:
- Were these relationships designed or accidental?
- How did these relationships change over time?

- How do these relationships appear in the current landscape; are they visual or buried features?
- Are there other significant factors, such as historical, artistic, literary, place name or scenic associations, intellectual relationships (for example, to a theory, plan or design), or sensory factors that can be vital to understand the historic asset and its setting?

Stage 2 should also identify the viewpoints from which the impact of the proposed change or development should be assessed, taking into account, for example:

- views that were designed and developed to overlook the historic asset and its setting
- incidental views to and from the historic asset which contribute(d) to its significance
- important modern views to and from the historic asset
- important modern views over and across the historic asset.”

Bronwylfa Cadw ID 0640 is now of one and a half storeys with its east gable to the road and a rear single storey lean to extension to the rear. Its principal windows appeared originally to be to the south overlooking the village with fenestration in the gable. There is some mature tree cover to the rear of the property. The property appears to have always faced towards Llansilin.

The Old Vicarage Cadw ID 81918 is imposing with the symmetrical front face south towards the village with some windows on the west elevation facing the site; namely a dining room and kitchen on the ground floor, although the kitchen also has a window facing north to the rear garden, and one bedroom on the first floor with no other windows. .

Capel Salem has windows facing South East towards the village.

The orientation of the properties all appear to be facing towards the village and not over the application site.

Both The Old Vicarage and Bronwylfa were both designed to be at the edge of the village with their principal views being towards the village. More recent development has been of the traditional form of principal views looking towards the road. It is noted that this traditional form of development is proposed which is considered appropriate and would follow the form of Maes Teg and The Vicarage.

Given the distance from and the orientation of Capel Salem, it is not considered that the proposal would have an impact on the setting of Capel Salem.

The Old Vicarage has its principal windows looking south and not over the farmland possibly depicting its original status as a large house overlooking the village, or possibly reflecting the fact that the Vicarage looked over the occupants of Llansilin and looked towards the church as is common in Vicarage construction albeit no views of the church were afforded as other development in Llansilin obscured the view of the church. The property is large and set in large grounds with large mature trees screening the property from both the B4580 and the minor road leading north from the B4580. I would not consider that the proposal would have an impact on the setting on the listed building The Old Vicarage.

Whilst the principal windows facing southwards there is still the potential for the proposed development to have a limited impact on the setting of Bronwylfa. I note that the proposed field access immediately to the north of Bronwylfa is to be removed, which will ensure that the existing tree cover can be maintained. Whilst the application is made in outline there is an indicative block



plan which illustrates the houses set back from the road with the outer 2 properties (plot 1 and plot 4 having detached garaging).

It is noted that Plot 1 is sited as far away from Bronwylfa as possible with a detached garage (presumably single storey) the closes development to Bronwylfa.

Whilst the application is made in outline with all matters except access being reserved, the indicative block plan does illustrate that there is scope for mitigation to alleviate any impact on the setting of Bronwylfa. Plot 1 is the largest plot, the location of the house is shown some distance from the listed building. Whilst the height of the house and garage are not indicated on the block plan, the Design and Access Statement does provide some minimum and maximum dimensions. Given the low height of Bronwylfa the height of the proposed dwellings could potentially have an impact on the setting of the listed building if poorly sited and designed without thought to the adjacent listed building. However the application is made in outline and given the size of the plots there is also the opportunity for the development to have no adverse affects on the setting of Bronwylfa, given the orientation of the windows, the aspects in which Bronwylfa sits and its relationship with the village and not the application site.

I would therefore not consider that the proposal would have such an impact on Bronwylfa to warrant an objection in terms of setting of this listed building, however would request that care be taken at reserved matters stage to take into account this listed building in terms of design, height and siting of the dwelling on plot 1 I would be happy to be consulted at reserved matters stage if that would be helpful.

Taking into account the orientation of the listed buildings, their relative relationship to the village and the application site I would have no objection to the proposed application as made in outline form.

## **Representations**

The application was advertised through the erection of a site notice and press advertisement. Seven public representations/objections have been received in respect of this proposal.

The objections received are summarised below;

- The site is outside settlement boundary,
- No need for further housing development in the area,
- This is speculative development which will not be affordable,
- Shortage of affordable homes,
- Loss of view and privacy from adjacent dwellings,
- Inadequate access and increase of traffic movements as a result of the development,
- Empty properties in the village currently for sale.

## **Planning History**

No history

## **Principal Planning Constraints**

- Listed Building
- Conservation Area

- C2205 County Highway

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
 TAN 1 - Joint Housing Land Availability Studies (2015)  
 TAN 2 - Planning and Affordable Housing (2006)  
 TAN 5 - Nature Conservation and Planning (2009)  
 TAN 6 - Planning for Sustainable Rural Communities (2010)  
 TAN 12 - Design (2016)  
 TAN 18 - Transport (2007)  
 TAN 20 - Planning and the Welsh Language (2017)  
 TAN 23 – Economic Development (2014)  
 TAN 24 – The Historic Environment (2017)

### Local Planning Policies

Powys Unitary Development Plan (2010)  
 UDP SP2 – Strategic Settlement Hierarchy  
 UDP SP5 - Housing Developments  
 UDP GP1 - Development Control  
 UDP GP3 - Design and Energy Conservation  
 UDP GP4 - Highway and Parking Requirements  
 UDP GP5 – Welsh Language and Culture  
 UDP HP3 - Housing Land Availability  
 UDP HP4 - Settlement Development Boundaries and Capacities  
 UDP HP6 - Dwellings in the Open Countryside  
 UDP DC10 - Mains Sewage Treatment  
 UDP DC11 - Non-mains Sewage Treatment  
 UDP DC13 - Surface Water Drainage  
 UDP DC8 - Public Water Supply  
 UDP DC9 - Protection of Water Resources  
 UDP ENV1 - Agricultural Land  
 UDP ENV2 - Safeguarding the Landscape  
 UDP ENV3 - Safeguarding Biodiversity & Natural Habitats  
 UDP ENV7 - Protected Species  
 UDP ENV11 - Development in Conservation Areas  
 UDP ENV12 - Permitted Development in Conservation Areas  
 UDP ENV13 - Demolition in Conservation Areas  
 UDP ENV17 - Ancient Monuments and Archaeological Sites  
 UDP TR2 – Tourist Attractions

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
 UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

Outside of settlement boundaries, UDP Policy HP4 applies and states that 'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

### Housing land supply

Public representations are noted in respect of comments regarding the need of additional housing within the village. The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainable location

Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Llansilin (defined as a Large Village within the UDP). The village benefits from a Church, Primary School, Public House, Garage, Shop, Play Area and Village Hall. Furthermore given its proximity to Llanrhaeder ym Mochnant and Oswestry, Development Management considers that future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through existing public transport services (although limited in nature).

In light of the above, Officers consider that additional residential development in this location is considered to be a sustainable location.

## Affordable Housing

The outline submission indicates a mixture of dwellings; however Members are advised that this scale is indicative only with scale being a reserved matter for future consideration. The current submission indicates provision of a single affordable dwelling. The applicant accepts that Llansilin is an identified settlement under Policy GP5 and as such they have taken the importance of the Welsh Language and Culture into account through the provision of a housing mix, through the sustainable location and through the provision of an affordable home.

It is considered that the proposed level of affordable housing (one unit) is acceptable and a condition should be attached to restrict the floor space of the dwelling to that set out within the UDP (upto 130m<sup>2</sup>) as well as removing permitted development rights. Furthermore a condition should be attached to require the submission of a scheme for the provision of affordable dwelling.

## Appearance, Layout and Scale

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area. Whilst design and layout are reserved and will be dealt with at the reserved matters stage, it is relevant to consider whether the number of dwellings proposed could be appropriately developed on the site.

The site is an edge of settlement location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change. The indicative layout and scale indicates four, two storey dwellings, some with garages sited off the private road. The layout demonstrates that the site can accommodate four dwellings and detailed design would follow at reserved matters stage, if this outline application receives consent which would provide the opportunity to ensure that the dwellings have an acceptable appearance and design. The immediate surrounding properties consist of a mixture of one and two storey detached properties with a mixed palette of materials; including brick, render and stone. Therefore, the proposed scale of two storeys is not considered to be out of character with the locality. The indicative layout provides a layout which results in the front elevations of the dwellings facing to the public highway which is recommended by Powys Residential Design Guide. The majority of dwellings within the Village face onto the public highway and are set back with access driveways off the highway.

In terms of landscaping, the submission indicates that the proposal would provide an opportunity to provide additional native landscaping which would assist in mitigating visual impact. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and public rights of way and that the proposal would result in a visual change in comparison to the current

agricultural use, taking into account the location opposite the cluster dwellings at Llansilin and along the approach road to the Village from the north, the development is considered to be acceptable. Furthermore, taking into account the character of existing development in the locality, and that landscaping measures would reduce the visual impact, the proposed scale of four dwellings is considered to reflect the character of the development that has occurred along the highway at Llansilin. It is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area. Therefore, it is considered that the application site is capable of accommodating four dwellings without unacceptably adversely affecting the character and appearance of the area compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Residential Amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The public representations are acknowledged in respect of the potential impact on residential amenity, however the site is bounded by agricultural fields to the north and west, while on its east elevation the site is adjacent to dwelling known as Bronwylfa and its associated garden with intervening mature hedge and trees between. The other nearest properties to the site are noted to be The Old Vicarage, Maes Teg and Vicarage which are east of the proposed site and approximately between 30 and 45 metres respectively with intervening County Highway between and mature trees and hedge between Bronwylfa which further aids potential overlooking issues.

It is important to note that details relating to design and appearance are reserved for future consideration. Officers consider that the amenities of neighbouring properties can be safeguarded through sensitive design and siting which will be reviewed appropriately by Development Management in considering any future application for the approval of reserved matters.

Following consultation with Environmental Health no objection has been received in relation to its impact on neighbour amenity.

In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2 metres. Whilst this distance is less than 40 metres in relation to plot 1 of the proposed site to the nearest identified property (Bronwylfa), the detailed design could take account of the overshadowing guidelines and as such would be considered at reserved matters stage, however given the mature trees and a hedge between the site and the said property the Officers consider that there will be no negative impact in this respect.

Taking into account the character of existing development in the locality and the highway, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

## Highway Safety and Movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

Public representations are acknowledged in terms of highway safety and movements, however the scheme is proposing construction of new access point onto B4580 County Highway on the east elevation of the proposed site together with the construction of a small section of pedestrian footway towards the village towards the junction with B4580 which will further increase highway safety at this particular location. The plans clearly indicate that each dwelling will have sufficient parking and turning area within the site without detrimental impact on safety and vehicular movements to/from the site.

In light of the comments received from Highway Authority and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movements subject to inclusion of relevant highway conditions as requested by the Highway Authority. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4.

## Conservation Area and Heritage

Policy ENV11 of the Powys UDP states that proposals for development within or adjoining a conservation area should be of high quality design and should preserve or enhance the character or appearance of that area. Inappropriate developments that would significantly detract from that character will be opposed.

The Heritage Officer notes that the application site is adjacent to a number of designated heritage assets namely;

- Bronwylfa (Grade II listed building)
- The Old Vicarage (Grade II listed building)
- Capel Salem (Grade II listed building)

Bronwylfa is apparently of the C17th and is reputed to be the oldest property in the village of Llansilin. The property is a box framed house later encased in stone and originally a two unit house now of one and a half storeys with its east gable to the road. There is a small window to the south and a much lower floor and roof level and may be the shop as recorded in 1841. The Officers note that the proposed development would be the field directly to the north of this property, which is open farmland for some distance to the next property. However there is development on the other side of the unclassified road on the minor road north from the B4580.

The Old Vicarage is sited at the junction of the B4580 and the minor road that leads northwards from the junction. A vicarage appears on this site on the 1792 map, however the current building indicates a rebuild or substantial alteration in the early C19th. The property is imposing at the head of the village at an important road junction and is a 2 storey 5 window symmetrically fronted house in the Tudor style with flanking wings and a projecting porch. The windows face south towards the village and the site has substantial grounds with many mature trees.

Capel Salem is a Baptist Chapel built in 1831. The chapel is sited to the East of the minor road north from the B4580. The chapel is simply designed with unusual windows sited on the front elevation with a blank gable to the road. The windows look South East towards the village.

The Officers also note that the site lies outside the conservation area with; Bronwylfa, Ty Silin and Tal-ardd between the site and Conservation Area, and that the site is open farmland with 4 properties adjacent. Of the adjacent properties 2 are listed, and are of significance, Bronwylfa as a large cottage with many historical and architectural features of interest which has retained its early form and construction and acquiring an interesting C19 addition with a strong vernacular character overall, and The Old Vicarage as a fine parsonage in the Tudor architectural manner of the later Regency to early Victorian period, well restored.

The Officers are mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

It is also important to refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9<sup>th</sup> edition 2016 which states, "*Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.*"

TAN24 which was issued and came into effect on 31 May 2017 addresses setting with some of the factors to consider and weigh in the assessment including

- the prominence of the historic asset
- the expected lifespan of the proposed development
- the extent of tree cover and its likely longevity
- non-visual factors affecting the setting of the historic asset

On a local level Powys Unitary Plan policies reflect national legislation and guidance; Powys Unitary Development Plan Policy ENV14 (Listed Buildings) states that "*proposals for development unacceptably adversely affecting a listed building or its setting will be refused*".

UDP Policy SP3b states that "proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and heritage conservation and historic interest". UDP Policy GP1 states "*development proposals will only be permitted if they take into account the following – the design, layout, size, scale, mass and materials of the development shall complement and where possible enhance the character of the surrounding area*".

The Officers note the orientation of the properties, as all appear to be facing towards the village and not over the application site. Both, The Old Vicarage and Bronwylfa were both designed to be at the edge of the village with their principal views being towards the village. More recent

development has been of the traditional form of principal views looking towards the road. It is noted that this traditional form of development is proposed which is considered appropriate and would follow the form of Maes Teg and The Vicarage. The Officers consider that given the distance from and the orientation of Capel Salem, it is not considered that the proposal would have an impact on the setting of Capel Salem.

In respect of The Old Vicarage which has its principal windows looking south and not over the farmland possibly depicting its original status as a large house overlooking the village, or possibly reflecting the fact that the Vicarage looked over the occupants of Llansilin and looked towards the church as is common in Vicarage construction albeit no views of the church were afforded as other development in Llansilin obscured the view of the church. The property is large and set in large grounds with large mature trees screening the property from both the B4580 and the minor road leading north from the B4580. The Officers would not consider that the proposal would have an impact on the setting on the listed building The Old Vicarage.

Whilst the principal windows facing southwards there is still the potential for the proposed development to have a limited impact on the setting of Bronwylfa. The Officers note that the proposed field access immediately to the north of Bronwylfa is to be removed, which will ensure that the existing mature tree cover can be maintained. Whilst the application is made in outline there is an indicative block plan which illustrates the houses set back from the road with the outer 2 properties (plot 1 and plot 4 having detached garaging).

It is further noted that Plot 1 is sited as far away from Bronwylfa as possible with a detached garage (presumably single storey) the closes development to Bronwylfa.

Whilst the application is made in outline with all matters except access being reserved, the indicative block plan does illustrate that there is scope for mitigation to alleviate any impact on the setting of Bronwylfa. Plot 1 is the largest plot; the location of the house is shown some distance from the listed building. Whilst the height of the house and garage are not indicated on the block plan, the Design and Access Statement does provide some minimum and maximum dimensions. Given the low height of Bronwylfa the height of the proposed dwellings could potentially have an impact on the setting of the listed building if poorly sited and designed without thought to the adjacent listed building. However the application is made in outline and given the size of the plots there is also the opportunity for the development to have no adverse effects on the setting of Bronwylfa, given the orientation of the windows, the aspects in which Bronwylfa sits and its relationship with the village and not the application site.

The Officers would therefore not consider that the proposal would have such an impact on Bronwylfa to warrant an objection in terms of setting of this listed building, however this could be taken into account at reserved matters stag.

Taking into account the orientation of the listed buildings, their relative relationship to the village and the application site, Powys Heritage Officer confirms that there are no objections to the proposed application. In light of the above observations, Development Management considers the proposed development to be in accordance with policy ENV11 and ENV14 of the Powys UDP in respect of Conservation Area and TAN 24 (The Historic Environment 2017).

#### Foul drainage



It is proposed to connect to the public sewerage system which is the preferred method of disposal. Public representations have raised concern over foul drainage. Severn Trent Water has advised that they have no objection to the development and do not require a drainage condition to be applied. Therefore Development Management is satisfied that the sewerage disposal system has sufficient capacity to accommodate the additional flows generated as a result of the development.

In light of the above observations, Development Management considers the proposed development to be in accordance with Policy DC10 of the Powys UDP in respect of foul drainage disposal.

#### Impact upon nature conservation

Given that the site is currently within agricultural use and that there are no known species or sites within the locality which would be affected by the development, it is not considered that the proposal would affect nature conservation interests. Landscaping would be considered at the reserved matters stage and as such this would provide biodiversity enhancements in accordance with UDP Policy ENV3.

#### Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

#### Welsh Language and Culture

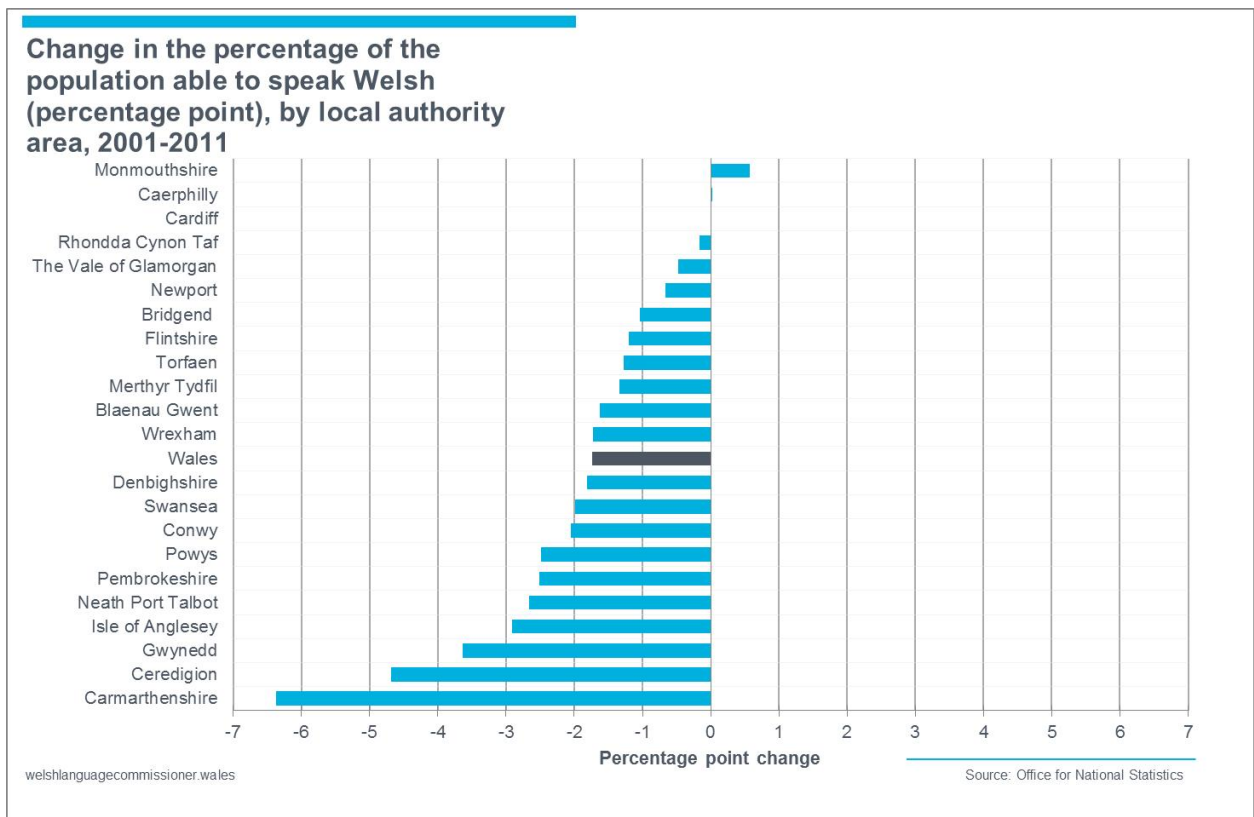
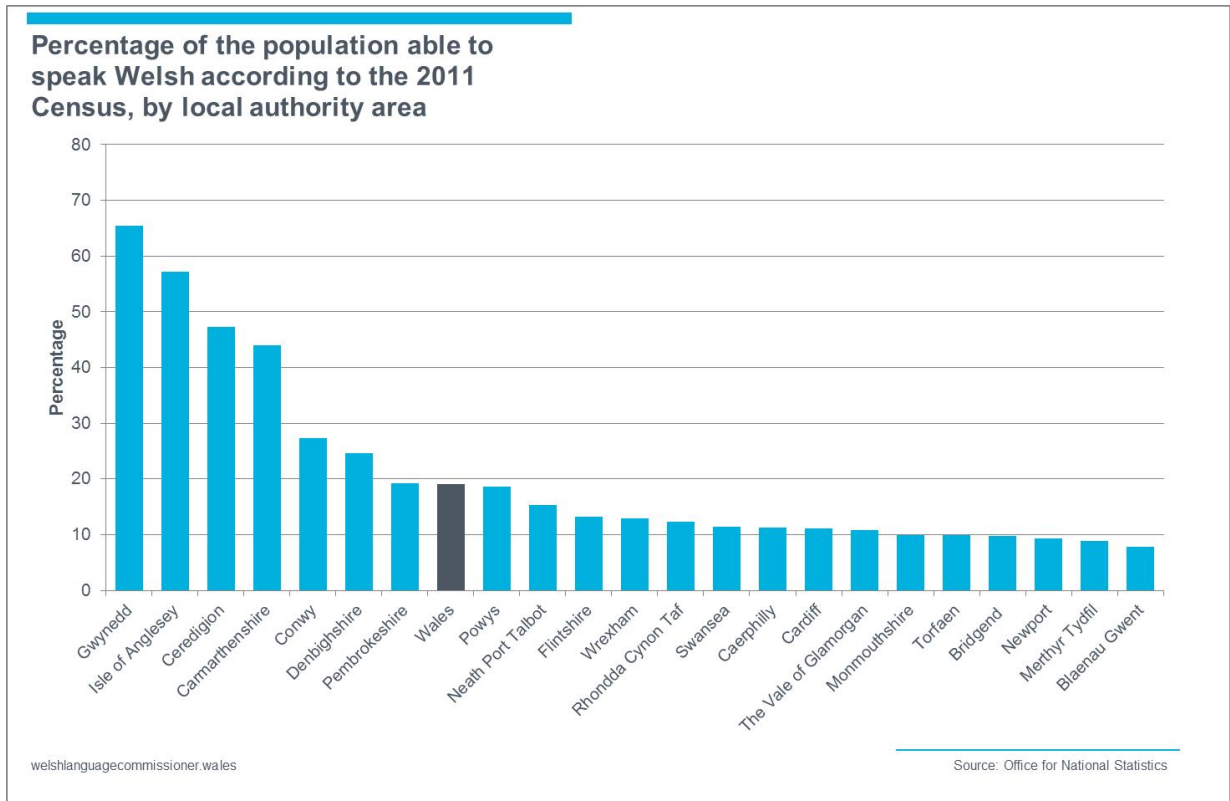
Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

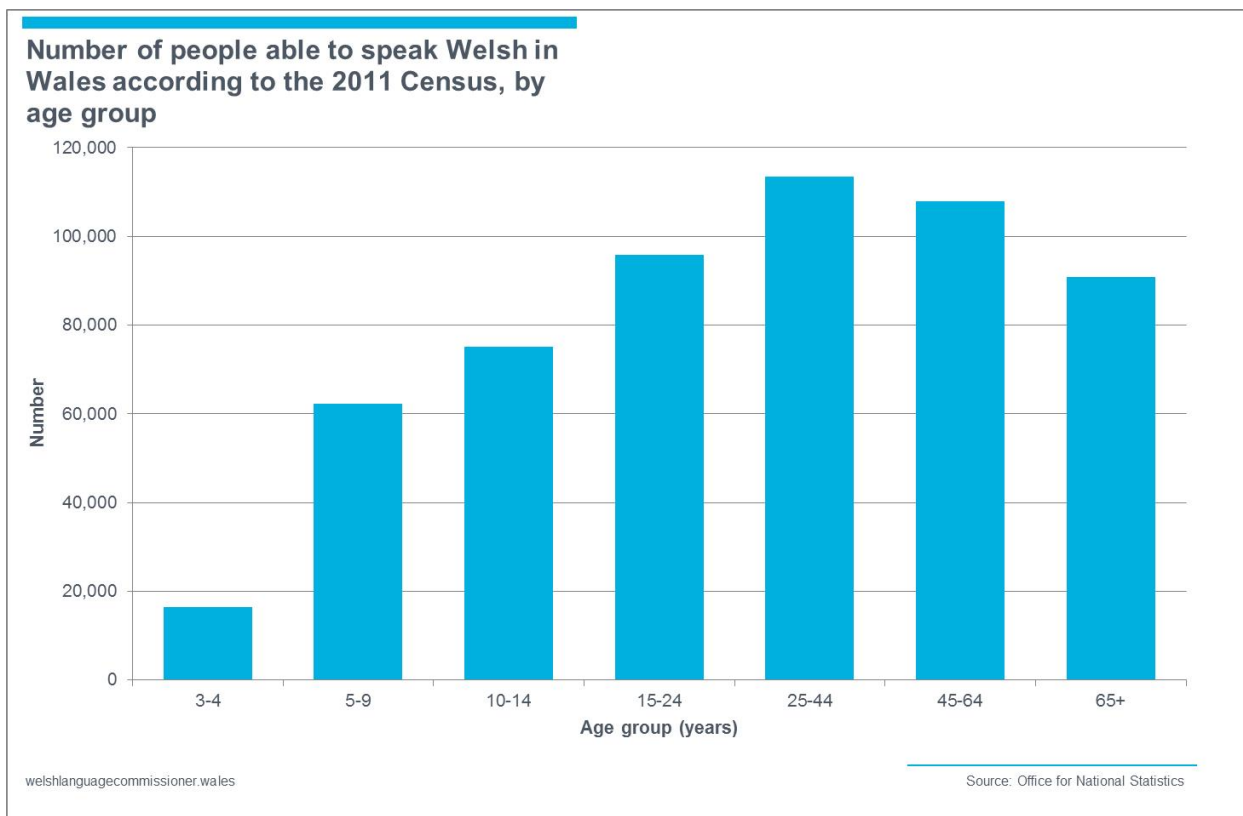
With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate

level of affordable homes. Llansilin has been identified as one of the settlements under policy GP5.





**2001 Census (Llanrhaeadr-ym-Mochnant/Llansilin)**

All people aged 3 and over	Understands spoken Welsh only	Speaks but does not read or write Welsh	Speaks and reads but does not write Welsh	Speaks, reads and writes Welsh	Other combination of skills	No knowledge of Welsh
1,732	164	91	45	549	57	826

**2011 Census (Llanrhaeadr-ym-Mochnant/Llansilin)**

All usual residents aged 3 and over	No skills in Welsh	Can understand spoken Welsh only	Can speak Welsh	Can speak but cannot read or write Welsh	Can speak and read but cannot write Welsh	Can speak, read and write Welsh	Other combination of skills in Welsh
2,242	1,204	207	765	104	53	602	72

The census information has been looked at by the Welsh Language Commissioner who has provided the following breakdown regarding the ability to speak Welsh in the area.

**Community: Llansilin**

**able to speak Welsh**

2011	2001	2011	2001
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<b>Age</b>	<b>%</b>	<b>%</b>	<b>Number</b>	<b>Number</b>
3+:	26.8	31.6	184	201
3-15:	44.6	48.2	50	54
16-64:	22.6	27.7	95	106
65+:	25.3	28.9	39	41

It is apparent from the figures above that the numbers of people speaking Welsh in the Llansilin community has unfortunately decreased by 4.8% overall, from 31.6 % in 2001 to 26.8% in 2011.

Llansilin has been identified where the Welsh language has been identified as being important to the social, cultural and community fabric. The village includes Church, Primary School, Public House, Garage, Shop, Play Area and Village Hall. It is considered that the introduction of four proposed dwellings could help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten these facilities or force sections of the population away from these facilities.

The four dwellings currently proposed are considered to be of sustainable scale and appropriate from a village growth perspective. This stance is based on the facilities located in close proximity of the site and nearby larger settlements. In light of the limited scale of the development, no phasing condition is considered necessary to control the number of dwellings constructed at one time.

Therefore, given that one of the dwellings will be limited by condition as an affordable unit, which is considered an appropriate level of affordable homes for the proposal, it is concluded that the development would assist in contributing to the well-being of the Welsh language in Powys.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

With regard to the developments impact on schools, given the scale of the proposed development, the impact on nearby schools is considered to be minimal. No adverse or positive impact can therefore be identified in relation to the balance between Welsh-speaking and non-welsh speaking students.

In relation to impact on health care provision, given the scale of the proposed development, the impact on health care provision is also considered to be minimal. No adverse or positive impact can therefore be identified in relation to Welsh medium services.

With regard to social tensions, conflict or divisions, given the scale of the proposed development, it is not considered that the proposal would have a significant uneven effect on different parts of the local community, which would potentially advantage some groups and disadvantage others. No evidence has been identified that the proposed development would violate traditional values of certain parts of the community.

In light of the above it is considered that the proposed development could sustain and enhance the services currently within Llansilin and the provision of housing and affordable dwellings will help sustain and enhance the cultural and linguistic vitality of the area.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## RECOMMENDATION

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

### Conditions:

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access point onto the unclassified highway (drawing no: RPP/RC-JOB58-03 Rev C).
5. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 25% affordable dwellings;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
6. The affordable dwelling shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

7. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

9. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

10. Prior to the commencement of development detailed engineering drawings for a footway link along the Class III C2205 & B4580, and widening along the Class III C2205 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.

11. Prior to any works commencing on the development site, all Highway Improvements, referred to in condition 10, shall be fully completed and approved in writing by the Local Planning Authority. The approved works shall be retained for their designated use for as long as the development hereby permitted remains in existence.

12. Prior to the occupation of the dwelling any entrance gates shall be set constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

14. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

13. The centre line of the first 10 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

14. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

15. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

16. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

17. Before any other development commences provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

18. The width of the access carriageway, constructed as per above conditions, shall be not less than 5.5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

19. Prior to the occupation of the development a radius of 6 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

20. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

21. Upon formation of the visibility splays as detailed in the above conditions the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

22. No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### Reasons

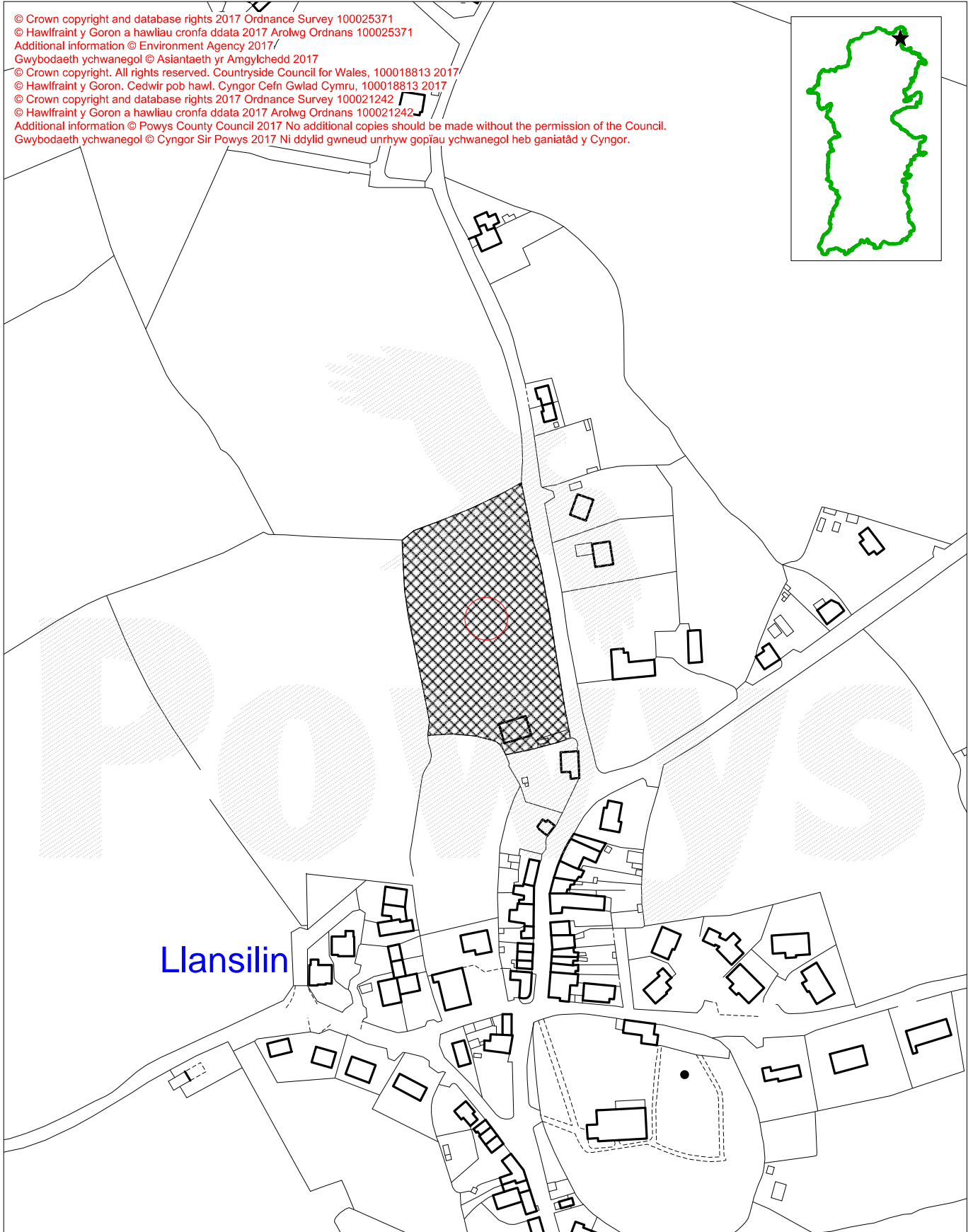
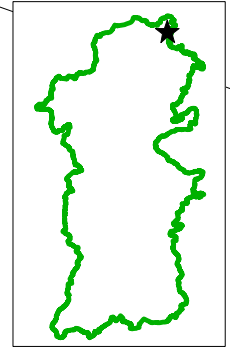
1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.



4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
6. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
7. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
8. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
9. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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19. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
20. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
21. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
22. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.



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Llansilin

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.4

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/0910	<b>Grid Ref:</b>	324159.88, 302350.02
<b>Community Council:</b>	Forden	<b>Valid Date:</b>	<b>Officer:</b> 07/08/2017 Bryn Pryce
<b>Applicant:</b>	J P & S Blurton Kingswood Lane, Rose Hill, Forden, Welshpool Powys SY21 8TR		
<b>Location:</b>	Land adjoining Rose Hill, Kingswood Lane, Forden, Welshpool, Powys SY21 8TR		
<b>Proposal:</b>	Outline application (with some matters reserved) for up to 4 dwellings and garages, formation of vehicular access road and all associated works		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan.

### Site Location and Description

This site is accessed via a private track off the U2487 unclassified highway within the large village of Kingswood. The existing site is laid to grass used for the purpose of agricultural grazing. The site is bound by dwellings to the northeast, Offas Dyke Scheduled Ancient Monument to the northwest, agricultural fields to the southwest and mature hedgerows to the southeast.

This application seeks outline consent for the erection of up to 4 dwellings and garages, formation of vehicular access and all associated works. The application considers the principle of residential development on the site and access to it with all other matters reserved for future consideration. An indicative layout for the site and indicative scale has been provided with the application. The site is located directly adjacent to the settlement boundary of Kingswood.

### Consultee Response

#### Forden CC

*Correspondence received 25<sup>th</sup> August 2017*

Councillors reported: Not reached unanimous decision – concerns about Access, Density, Affordability and Sewage impact.

*Correspondence received 27<sup>th</sup> October 2017*

Not Supported. concerns about access, density, affordability and sewage impact.

Highways Dept north

*Correspondence received 17<sup>th</sup> November 2017*

The County Council as Highway Authority for the County Unclassified Highway, U2487

**Wish the following recommendations/Observations be applied**

**Recommendations/Observations**

Prior to any other works commencing on the development site, detailed engineering drawings for a passing bay along the Unclassified U2487 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC8 Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

Building Control

*Correspondence received 17<sup>th</sup> August 2017*

Building Regulations application required.

## Wales & West Utilities

*Correspondence received 18<sup>th</sup> August 2017*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

*Correspondence received 26<sup>th</sup> October 2017*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

## Sever Trent Water

*Correspondence received 18<sup>th</sup> August 2017*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution

Severn Trent Water advise that there are public sewers located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

*Correspondence received 27<sup>th</sup> October 2017*

As no drainage proposals have been submitted for site we request our previous comments remain.

#### Environmental Health

*Correspondence received 17<sup>th</sup> August 2017*

Re: Outline application (with some matters reserved) for up to 4 dwellings and garages, formation of vehicular access road and all associated works.

Foul drainage

Environmental Protection has no objection to the proposal to connect to the mains sewer.

Construction-phase noise control

For the protection of amenity for nearby residential properties, Environmental Protection recommends the following condition for the control of construction-phase noise:

*“Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.”*

#### Rights of way

*Correspondence received 31<sup>st</sup> August 2017*

Countryside Services recommends that the application be refused as it does not take into account the existence of public footpath 11.

I write to confirm that the above public footpath could be affected by the above proposal, and as such it is our duty to point out that it is a criminal offence to obstruct, or to interfere with a public right of way without lawful authority or excuse.



It is strongly recommended that the applicant checks their proposals against the Definitive Map, which is the legal record of the location and status of public rights of way, and give full consideration to redesigning the proposed development so that it does not obstruct the public right of way.

The Definitive Map is held in the Council's Gwalia Offices, Ithon Road, Llandrindod Wells, and can be viewed by appointment.

If redesigning the layout of the development is not a possible option, the applicant will need to apply for a legal diversion (Public Path Order) of the public right of way affected. However, this is a complex and lengthy legal procedure, which takes a minimum of six months to process and costs at least £2,000. The County Council is not obliged to make a diversion order and success of a Public Path Order cannot be guaranteed.

The Council will also expect any new or diverted routes to be created to a minimum width and of a suitable surface, at the developer's expense.

Development over, or illegal interference with, a public right of way before a diversion order application has been fully processed, is a criminal offence and enforcement action will be taken against a developer who ignores the presence of affected public rights of way.

It is expected that all development proposals will be in-line with the guidance set out in the Powys County Council's '*Rights of Way and Development - A Practitioners Guide*', available from Countryside or Planning Services' upon request or on-line at <http://www.powys.gov.uk/index.php?id=1756&L=0>

For more information and an application form for a Public Path Order please contact the Rights of Way Officer, Sian Barnes (01597 827595) [sian.barnes@powys.gov.uk](mailto:sian.barnes@powys.gov.uk)

PCC Ecologist

*Correspondence received 13<sup>th</sup> September 2017*

Thank you for consulting me with regards to planning application P/2017/0910 which concerns the outline application (with some matters reserved) for up to 4 dwellings and garages, formation of vehicular access road and all associated works at land adjoining Rose Hill, Kingswood Lane, Forden, Welshpool.

I have reviewed the information submitted with the planning application as well as aerial images and photographs of the site and surrounding habitats in addition I have consulted biological records for the local area.

The data search identified 39 records of protected and priority species within 500m of the development - no records were identified for the site itself.

No statutory designated sites are present within 500m of the potential development site.

The following non-statutory designated site is present within 500m of the potential development site:

- Kingswood Meadow Local Wildlife Site

Having reviewed the location and nature of the proposed development in relation to the Local Wildlife Site it is considered that there the propose development would not result in a negative impact to the LWS or its associated features.

From aerial photographs the site appears to be an area of poor semi improved grassland, this habitat is considered to be of low ecological importance. The site boundaries appear to be formed by hedgerows with occasional trees, hedgerows are listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi. Hedgerows are also included in the Powys LBAP under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Powys UDP Policy ENV2 states that

*'Proposals which are acceptable in principal should:*

*3. Seek to conserve native woodlands, trees and hedgerows'*

Should the proposals require the removal of any hedgerows or trees to accommodate the proposed development or any associated works then appropriate compensation in line with the requirements of UDP Policies ENV2 and ENV6 will need to be provided. Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

I note from the site photographs that there are a number of mature trees scattered throughout the boundary around the potential development site. While the trunks does not appear to be in the site boundary given the size and age of the trees – the root protection area is likely to extend into the proposed development area. It is therefore recommended that details as to how these features of biodiversity importance for wildlife will be protected during the construction period of works it is recommended that a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 is submitted with any planning application, this could be secured through a planning condition, however the submission of a Tree and Hedgerow Protection Plan with a planning application would avoid the need for a pre-commencement condition requiring this information.

Within the supporting planning statement it proposes to include native landscape planting. If it proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a landscaping plan is secured through an appropriately worded condition.

Careful consideration will need to be given to any external lighting design within the proposed development to minimise impacts to nocturnal wildlife commuting and foraging in the local

area. It is therefore recommended that a wildlife sensitive lighting plan is secured through an appropriately worded condition.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

*Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

*Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

*No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

*Correspondence received 21<sup>st</sup> November 2017*

Thank you for re-consulting me with additional information submitted with regards to planning application P/2017/0910.

Having reviewed the additional information and revised plans it is considered that my previous response submitted 13<sup>th</sup> September 2017 remains valid.

CADW

*Correspondence received 5<sup>th</sup> September 2017*

Thank you for your letter of 16 August 2017 inviting our comments on the above planning application.

Advice

Having carefully considered the information provided with this planning application, we consider that it is inadequately documented. Our assessment of the application is given below.

## Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site.

We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

## National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

## Assessment

The application area is located immediately adjacent to scheduled monument MG139 Offa's Dyke: Section NE of Welshpool-Churchstoke Road.

The proposed development will cause damage to the setting of the scheduled monument and this will be a material consideration in the determination of this planning application (see

Planning Policy Wales Section 6.5.5): However no information on this issue has been submitted.

Your authority should therefore request more details of the proposed dwelling to be provided. This will require an assessment of the impact of the proposed development on the setting of the scheduled monument to be prepared in accordance with the methodology outlined in the Welsh Government's best-practice guidance Setting of Heritage Assets in Wales (2017). Once this information has been provided we should be re-consulted accordingly.

*Correspondence received 7<sup>th</sup> November 2017*

Thank you for your letter of 26 October 2017 inviting our comments on additional information submitted for the above planning application. A new indicative plan of the proposed development has been submitted, showing the most north-westerly dwelling moved to a new location some 20m from the boundary of the scheduled monument. A screening belt of trees some 10m wide is also depicted along the boundary with the scheduled monument.

A heritage impact statement has been prepared in response to the new indicative plan. This assessment concludes that whilst the development shown in that plan would cause harm to the setting of the scheduled monument, this would be minor. Whilst we concur with the result of the heritage impact statement, we have concerns that this is an outline planning application and that the submitted development plan is only indicative.

Consequently we recommend that a condition should be attached to any outline planning consent for this development requiring a 10m wide belt of native broad leaf trees to be planted along the boundary with scheduled monument MG139 Offa's Dyke: Section NE of Welshpool-Churchstoke Road in order to preserve its' setting.

CPAT

*Correspondence received 4<sup>th</sup> September 2017*

Thank you for the consultation on this application.

Information held within the Historic Environment Record indicates that the proposed development will be located immediately east of the Offa's Dyke scheduled monument (SM MG139). Plot 4 currently appears to encroach on the scheduled area which extends east of the public footpath in this field.

The close proximity of plots 3 and 4 in particular will have a detrimental impact upon the setting of the monument although the level of impact is currently unquantified. While the view to the west is currently blocked by existing housing the view along the dyke for walkers on the Offa's Dyke Path is largely unrestricted and open in both directions.

Due to the direct impact of plot 4 and the potential indirect visual impacts upon the scheduled monument the applicant will need to discuss the proposals with Cadw as soon as possible. The contact in Cadw will be Mr Neil Maylan via the Ancient Monuments Planning Admin section at [amadminplanning@wales.gsi.gov.uk](mailto:amadminplanning@wales.gsi.gov.uk)

In accordance with TAN 24: The Historic Environment (May 2017) and Planning Policy Wales (Chapter 6, Nov 2016) we anticipate that Cadw will require an assessment of the impact of

the development scheme upon the setting of the scheduled monument. The assessment should be completed in accordance with the WG/Cadw Managing the Setting of Historic Assets in Wales (May 2017).

It is likely that to reduce the visual impact of the scheme upon the scheduled monument there will need to be a reduction in the number of houses proposed. The removal of plots 3 and 4, which are located in close proximity to the scheduled monument, is likely to reduce the predicted impact.

In summary, the applicant needs to urgently contact Cadw with a full set of application plans and should discuss the requirement for a setting assessment with them.

*Correspondence received 30<sup>th</sup> October 2017*

Thank you for the amended information in the form of a Heritage Impact Statement report.

Cadw will be the primary consultee in this case as the development potentially impacts the setting of the scheduled monument and they should be given the opportunity to comment on the findings of the new report. The contact in Cadw is Mr Neil Maylan via [amadminplanning@wales.gsi.gov.uk](mailto:amadminplanning@wales.gsi.gov.uk)

## **Representations**

A public site notice was displayed near the site for a period of 21 days. Two letters of objection have been received in response by Development Management at the time of writing this report. The comments raised are summarised below:

- Width of highway leading to site inadequate
- Highway safety for other road user including pedestrians
- Public footpath crosses the proposed access
- Affect upon Offas Dyke Scheduled Ancient Monument as a cultural Tourism Asset.

## **Principal Planning Constraints**

Scheduled Ancient Monuments

Public Right of Way

Historic Landscapes Register

## **Principal Planning Policies**

National Planning Policy

Planning Policy Wales (9<sup>th</sup> edition, 2016)

Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)

Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)

Technical Advice Note (TAN) 12: Design (2016)

Technical Advice Note (TAN) 23: Economic Development (2014)

Technical Advice Note 24: The Historic Environment (2017)

## Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### Local Planning Policies

#### Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy  
SP3 – Natural, Historic and Built Heritage  
SP4 – Economic and Employment Developments  
SP5 – Housing Developments  
SP6 – Development and Transport  
SP12 – Energy Conservation and Generation  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highways and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
ENV17 – Ancient Monuments and Archaeological Sites  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
HP9 - Affordable Housing in Rural Settlements  
HP14 – Sustainable Housing  
RL6 – Rights of Way and Access to the Countryside  
DC1 – Access by Disabled Persons  
DC3 – External Lighting  
DC11 – Non-mains Sewage Treatment  
DC13 – Surface Water Drainage

#### Powys Residential Design Guide 2004

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

### **Officer Appraisal**

#### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

#### Principle of Development

This application site lies adjacent to the settlement of Kingswood which is classified in the Powys Unitary Development Plan 2010 as a large village. The site is accessed via a private road off the U2487 unclassified highway. The proposal is for up to four open market dwellings and therefore the proposed development represents a departure from the adopted Unitary Development Plan.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

*'The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'.*

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to must consider the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

PPW requires that development be sustainable and that adverse impacts do not outweigh the benefits. Furthermore, PPW states that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and new isolated homes in the countryside should be avoided. In line with PPW, residential development outside of settlement boundaries are considered in terms of the site's proximity to services and facilities likely to be required for residential use, and whether the site is suitably connected to these services and facilities.

Kingswood is defined in the UDP as a large village with a chapel, garage, petrol filling station, shop, village hall, public house, children's play area, bed and breakfast and bus stop. To date within the lifetime of the UDP there has been 20 dwellings completed on allocated sites within Forden and Kingswood. The pro-rata growth target set out in the LDP strategy paper states 31 dwellings as an appropriate level of growth for the settlements. In addition to the allocated sites there are consents in place for a further 28 dwellings in total between Forden and Kingswood cumulatively. This application is for four dwellings which would take the level of development over that of the pro-rata growth figure as set out in the LDP strategy paper but not significantly. The LDP has no allocated sites for Forden, but two allocated sites for Kingswood (HA1 – 15 Dwellings, HA2 – 10 Dwellings), however limited weight can be afforded to the LDP at this point in time until the final inspectors report is published.



Officers consider that in this case the proposed site is considered to be a sustainable location for four open market dwellings with access to a range of services and facilities that is well associated with the existing built up settlement form. In light of the above, officers consider that the large village is considered to be a sustainable location for a development of the proposed scale.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site. The submitted indicative layout submitted with the application shows that there would be up to four 3/4 bed dwellings with the design and access statement indicating that the dwellings will be between 7.7metres in width by 8.5 metres in length, 4.5-5 metres in height to the eaves with ridge heights of between 8.25 and 8.75 metres.

The design and access statement states that the envisaged design of the proposed dwellings would be to reflect the local vernacular comprised of dwellings of red brick construction and rendered walls with tile or slate roofs. The site would be landscaped using native landscape planting.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating four dwellings without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site is located adjacent to the settlement boundary of Kingswood. It is considered that the siting of the proposed dwellings is acceptable in the proposed location. Although landscaping is not considered as part of this application process it is considered that the proposed site is well integrated within the existing large village and would not have an unacceptable adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

As part of this application process the highways authority have been consulted and no objections have been raised subject to the inclusion of the recommended conditions upon any grant of consent. Officers are satisfied that subject to the conditions as suggested that the proposed development is considered to have an acceptable access.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding. Policy DC10 seeks to ensure that the adequate provision for foul sewerage can be provided on site via the public foul sewerage system.

As part of this application process the council's Environmental Health Officers have been consulted who have raised no objection to the scheme as it is to be served by the public sewerage system. Severn Trent have also been consulted and have raised no objection to the proposal subject to the inclusion of a condition to include details of the foul and surface water disposal for the scheme.

Officers consider that subject to the suggested condition that the proposed development fundamentally complies with policy DC10 and DC13 of the Powys Unitary Development Plan 2010 in respect of foul and surface water drainage.

### Ecology and Biodiversity

As part of this application process our county ecologist has been consulted and has provided comments on the application. No objections have been raised by the ecologist to the proposed development subject to the inclusion of the suggested conditions.

In light of the above and comments received, subject to the suggested conditions officers consider that the proposed development fundamentally complies with Policy ENV7 of the Powys Unitary Development Plan 2010.

### Scheduled Ancient Monument

The proposed development site is located directly adjacent the Scheduled Ancient Monument (SAM) known as Offa's Dyke (MG139). As part of this application process CADW have been consulted on the proposed development. Initially CADW raised significant concerns over the proposed development potential impact upon the setting of the SAM and requested that a Heritage Impact Assessment be carried out for the proposed development. As a result of the heritage impact statement the indicative layout of the site given was amended to move one of the proposed dwellings to a distance of 20 metres from the boundary of the SAM. The indicative layout plan also shows a 10 metres buffer strip alongside the boundary between the site and the SAM in order to screen the site.

CADW were re-consulted on the additional heritage impact assessment and amended plans received. The conclusions of the heritage impact statement was supported by CADW and they also supported the introduction of a 10 metre buffer strip between the dwellings and the SAM. Concerns have been raised by CADW over the nature of the indicative layout at this outline planning stage and have requested that the buffer strip as shown on the indicative layout be secured by an appropriately worded condition in order to protect the setting of the scheduled ancient monument.

In light of the above, subject to the inclusion of a suitable worded condition, officers consider that the proposed development complies with policy ENV17 of the Powys Unitary Development Plan 2010, Planning Policy Wales and Technical Advice Note (TAN) 24: The Historic Environment (2017).

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this

application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

#### Conditions:

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called ""the reserved matters""") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as received on 21st July 2017 (drawing no's: SA25973/01) and amended plans received 25th October 2017 (drawing no's: SA25973/01 REV A).
5. No development shall commence until detailed engineering drawings for a passing bay along the Unclassified U2487 and associated works, shall be submitted to and approved in writing by the Local Planning Authority.
6. Before any other development commences, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
7. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage

space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

8. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
9. Prior to commencement of development a Tree Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
10. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.
11. The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
12. Demolition or construction works shall not take place outside the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays and at no time on Sundays or Public Holidays.
13. Upon the submission of the reserved matters referred to in conditions 1 and 2, a scheme for the management of a 10 metre buffer zone to be planted with native broadleaf trees to the north west of the site adjacent to the boundary of the Offa's Dyke Scheduled Ancient Monument (MG139) shall be submitted to and approved in writing by the Local Planning Authority. The scheme must include details of the implementation, maintenance and retention of this buffer zone and the development must be undertaken in accordance with the agreed details.

#### **Reasons**

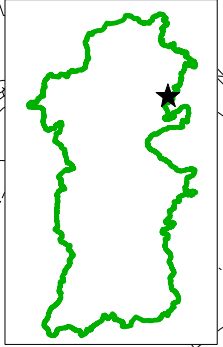
1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.

4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
6. To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
7. To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
8. To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.
9. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.
10. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
11. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution.
12. To safeguard the amenities of the locality in accordance with policy GP1 of the Powys Unitary Development Plan.
13. In order to preserve the setting of the Offas Dyke Scheduled Ancient Monument in line with policy ENV17 of the Powys Unitary Development Plan, Planning Policy Wales (9th Edition, 2016) and Technical Advice Note (TAN) 24: The Historic Environment (2017).

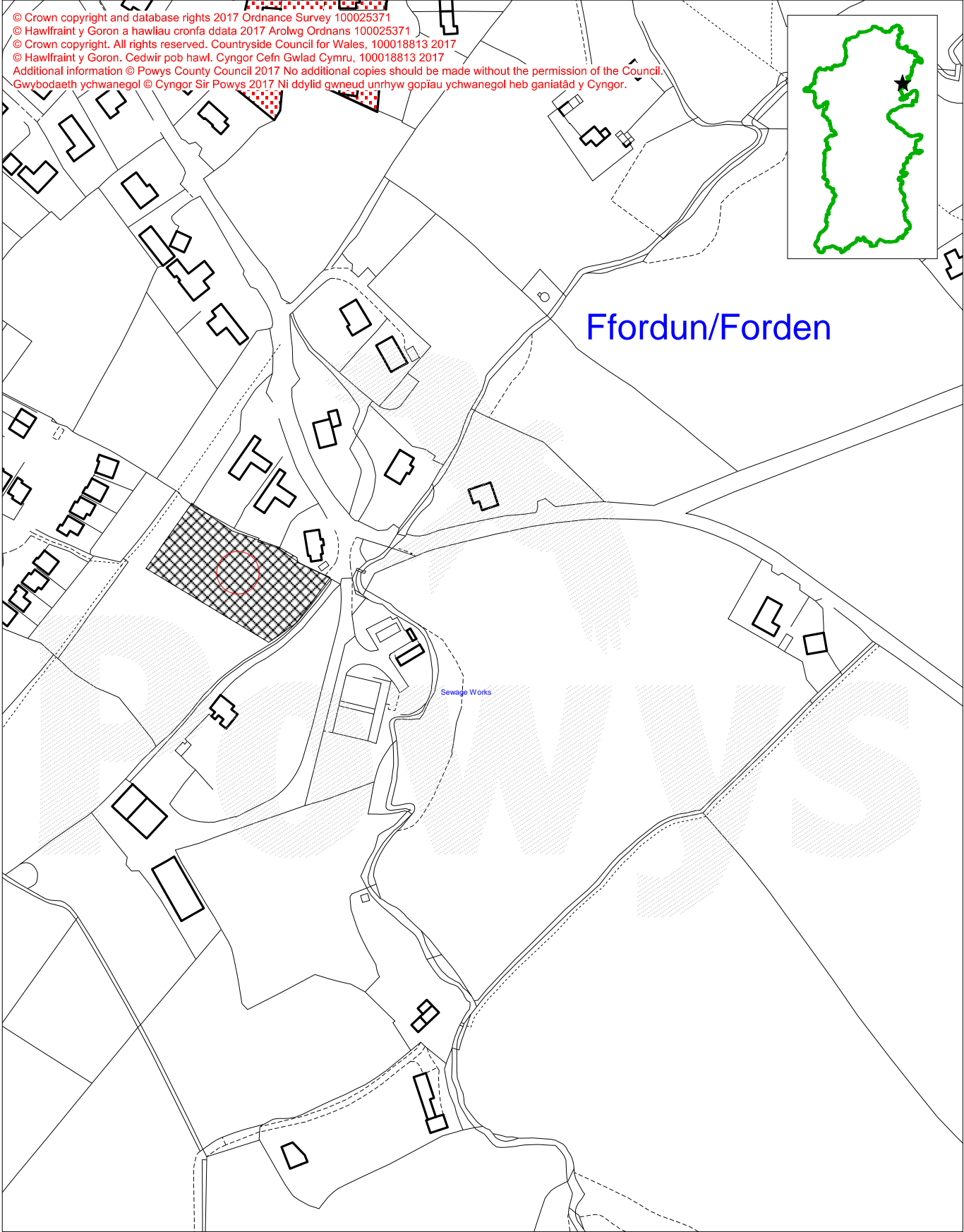
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## Ffordun/Forden



Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



# 5.5

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1128	<b>Grid Ref:</b>	310980.71 306565.31
<b>Community Council:</b>	Llanfair Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 02/10/2017 Sara Robinson
<b>Applicant:</b>	Mr D Williams, 23 Maes Derwen, Llanfair Caereinion, Welshpool, Powys, SY21 0BH		
<b>Location:</b>	Land adj to Highlea, Peartree Lane, Llanfair Caereinion, Welshpool, Powys, SY21 0BH.		
<b>Proposal:</b>	Land adj to Highlea, Peartree Lane, Llanfair Caereinion, Welshpool, Powys, SY21 0BH.		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application site is located outside of the development boundary and in the open countryside as defined by the Powys Unitary Development Plan (2010)

### Site Location and Description

The application site lies within the Community Council of Llanfair Caereinion. The site is located adjacent to the settlement boundary of Llanfair Caereinion and in the open countryside as defined by the Powys Unitary Development Plan (2010). The site is accessed by the unclassified road U6026 which connects to the county highway B4385. The nearest neighbouring residential property is adjoining the site to the west. The site has neighbouring dwellings to the west and south west and to the north; east and south are agricultural fields.

The application is for the erection of a dwelling and garage together with associated works some matters reserved, except for access.

### Consultee Response

#### Llanfair Caereinion Community Council-

At the meeting of Llanfair Town Council on Monday 23rd October 2017 the following decision were made.

Planning application P/2017/1128 dwelling at High Lea, Pear Tree Lane - application was not supported. The members raised concerns over a lack of adequate foul and surface water drainage. The lack of a footpath on the lane raised safety concerns for pedestrians.

## PCC Highways

The County Council as Highway Authority for the County Unclassified Highway, U6026

Wish the following recommendations/Observations be applied  
Recommendations/Observations

- HC1 Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
- HC2 The gradient of the access shall be constructed so as not to exceed 1 in 20 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
- HC3 The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
- HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 34 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
- HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
- HC9 Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom to a maximum of 3 excluding any garage space provided. The parking and turning areas shall be retained for their designated use in perpetuity.
- HC12 The width of the access carriageway, constructed as condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access

measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

In the interest of highway safety.

#### PCC Building Control

Building Regulations application required.

#### Wales and West Utilities

Wales & West Utilities acknowledge receipt of your notice received on 09.10.2017, advising us of the proposals for:

Higlea, Peartree Lane, Llanfair Caereinion, Welshpool, Powys, SY21 0BH

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent Water

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

#### PCC Environmental Health

*Comments received 06/10/2017*

There is no foul drainage detail therefore I am unable to consider the proposal at the current time.

*Comments received 06/10/2017*

Provided the proposed dwelling is connected to the mains foul drainage I have no objection to the application.

PCC Ecologist

Thank you for consulting me with regards to planning application P/2017/1128 which concerns the outline application for erection of a dwelling and garage together with associated works (some matters reserved) on Land adjacent to Highlea, Peartree Lane, Llanfair Caereinion, Welshpool.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 51 records of protected and priority species within 500m of the proposed development - no records were for the site itself.

There are no statutory or non-statutory designated sites within 500m of the proposed development.

The site of the proposed development appears to be an area of poor semi-improved grassland which is considered a habitat of low ecological value. However, the hedgerows and trees on the boundary of the development is considered to be of ecological value.  
Tree and Hedgerow Replacement and Protection Plan

From the plans submitted it appear that sections of the hedgerow will be removed to provide proposed new access. The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:  
'Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows'

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or

hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Given the proximity of development and development works to the mature trees (north of the development), it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works.

#### Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

#### Landscape Planting Scheme

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. It is therefore recommended that a landscape planting scheme is secured through an appropriately worded condition.

#### Biodiversity Enhancements

As the application is an outline application further details will be submitted at a later date as reserved matter consideration should be given to incorporate biodiversity enhancements.

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. These measures could include:

- Provision of bird and bat boxes including the details of the number, type and location of these boxes;
- A wildlife buffer strip and a scheme of appropriate management of these areas, hedgerows should be retained within buffer strips and should be unlit or lighting to be directed away from the hedgerows to create dark movement corridors for nocturnal wildlife through the site;
- Provision of wildlife friendly landscape planting.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

Prior to commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and

implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act.

Prior to the commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The submitted landscaping scheme shall include a scaled drawing and a written specification clearly describing the species, sizes, densities and planting numbers proposed as well as aftercare measures. Drawings must include accurate details of any existing trees and hedgerows to be retained with their location, species, size and condition.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following informative:

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

## PCC Rights of Way

Thank you for the opportunity to comment on this application.

The nearby right of way does not seem to be adversely affected by this proposal. Nevertheless can the applicant please be advised of the importance of making sure that it is not obstructed during the course of any works and that it is kept open throughout.

## CADW

Thank you for your letter of 4 October 2017 inviting our comments on the above planning application.

## Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monument MG203 Site 300m SW of Tan-Ilan (revealed by aerial photography). Our assessment of the application is given below.

## Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

## National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a

presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

## Assessment

The application area is some 600m south-south-east of scheduled monument MG203 Site 300m SW of Tan-Ilan (revealed by aerial photography). The monument consists of the remains of a defended enclosure, which probably dates to the Iron Age period, (c.800BC – AD74, the Roman Conquest of Wales). The site consists of a sub-circular, trivallate enclosure c.200m in diameter with narrow spaced outer ramparts. The innermost enclosure survives as an earthwork, although in a degraded state. The enclosure is set upon a gently sloping plateau above the Afon Banwy

The proposed development will be on land which is currently in agricultural use. The application (which is outline) suggests that the proposed development will consist of a single dwelling between 8m and 15m in length, 6m to 12m wide and up to 7m high.

The proposed dwelling will be visible from scheduled monument MG203 across the Afon Banwy Valley but at this distance it will be seen as a very small extension to the existing settlement along Pear Tree Road and therefore will not cause any damage to the setting of the scheduled monument.

## CPAT

Thank you for the consultation on this application.

I write to confirm that there are no archaeological implications for the development at this location.

## **Representations**

Following display of a site notice on 06/10/2017 for a period of 21 days no public representations have been received by Development Management at the time of writing this report.

## **Principal Planning Constraints**

Public Right of Way

## **Principal Planning Policies**

National Planning Policy

Planning Policy Wales (Edition 9, November 2016)



Technical Advice Note 1 - Joint Housing Land Availability Studies (2015)  
Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)  
Technical Advice Note 12 – Design (2016)  
Technical Advice Note 18 – Transport (2007)  
Technical Advice Note 20- Planning and the Welsh Language (2017)  
Technical Advice Note 23 – Economic Development (2014)  
Technical Advice Note 24: The Historic Environment (2017)

Welsh Government Circular 016/2014: The Use of Conditions  
Welsh Officer Circular 10/99: Drainage

### Local planning policies

Unitary Development Plan (March 2010)

SP3 – Natural, Historic and Built Heritage  
SP5 – Housing Developments  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highway and Parking Requirements  
ENV 2 - Safeguarding the Landscape  
ENV 3 - Safeguarding Biodiversity and Natural Habitats  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Developments  
HP6 - Dwellings in the Open Countryside  
HP9 - Affordable Housing in Rural Settlements  
HP10 - Affordability Criteria  
DC1 - Access by Disabled Persons  
DC11 - Non-mains Sewage Treatment  
DC13 - Surface Water Drainage  
RL4 - Outdoor Activity and Pony Trekking Centres  
RL6 - Rights of Way and Access to the Countryside  
TR2 – Tourism Attractions

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

### **Officer Appraisal**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning

Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

The application site lies outside of any development boundaries identified in the Powys Unitary Development Plan (2010) and adjoins the settlement of Llanfair. Outside of settlement boundaries, UDP Policy HP4 applies and states that *'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'*. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Paragraph 9.2.3 of Planning Policy Wales states that *'Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.'*

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the

development. Account should be given to the range of services and facilities available within close proximity to the site.

Llanfair Caereinion is defined in the UDP as an Area Centre. Llanfair Caereinion offers a large variety of services facilities including a Primary School, High School, Community Centre, Public Houses, Dentist and Place of Worship.

Llanfair Caereinion is also easily accessible by public transport with regular bus services to Oswestry, Welshpool and Newtown as well as a steam railway service to Welshpool.

In light of the range of services located within a short travelling distance of the development site, officers consider that there is an argument to support the principle of residential development at this location given its siting adjoining an Area Centre. Therefore, the proposed site is considered to be in a sustainable location for residential development.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

This application is submitted in outline with all matters reserved to be considered during the submission of the reserved matters other than access.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the single dwelling proposed is to be a detached dwelling with three to four bedrooms.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a single dwelling without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling will be located adjacent to the dwelling known as Cwmbuchan located adjacent to the proposed site. The indicative layout shows that the dwelling is at an offset angle and due to the existing mature hedgerow it is considered that there is sufficient distance between the existing property and the proposed dwellings as to not have a significant adverse impact upon the amenities enjoyed by the occupants of this neighbouring property.

This layout is for indicative purposes only and the layout of the site could be altered at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

In terms of landscaping the submission proposes the retention of a mature hedgerow. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and right of way the proposal would result in a visual change in comparison to the current agricultural use. The site is located adjacent to the dwelling known as Cwmbuchan on Hope Road which is a small housing estate. It is considered that the current proposal site is integrated well adjacent to the development boundary.

The development will be seen immediately adjoining the properties of Cwmbuchan, Murmur Y Coed and Newlyn and it is due to this clustering of dwellings that this exception site is considered acceptable in visual impact terms. Additionally, the landscaping measures proposed would reduce the visual impact and that the proposed scale of the dwelling, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested conditions listed above regarding entrance gates, parking provision and access construction methods and materials.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Ecology and Biodiversity

As part of this application process our County Ecologist had been consulted and has provided comments on the application. The Ecologist stated that having reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 51 records of protected and priority

species within 500m of the proposed development - no records were for the site itself. There are no statutory or non-statutory designated sites within 500m of the proposed development.

The site of the proposed development appears to be an area of poor semi-improved grassland which is considered a habitat of low ecological value. However, the hedgerows and trees on the boundary of the development is considered to be of ecological value.

The ecologist stated that from the plans submitted it appears that sections of the hedgerow will be removed to provide proposed new access. The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees.

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

Given the proximity of development to the mature trees (north of the development), it is considered prudent to require information from the applicant as to how these features biodiversity importance for wildlife will be protected during the construction period of works.

Careful consideration will need to be given to any external lighting design provided through the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area. It is therefore recommended that a Wildlife Sensitive Lighting Plan is secured through an appropriately worded condition.

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all of its functions – this includes the planning process. It is therefore recommend that consideration is given to opportunities to incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development.

Should biodiversity enhancement measures be proposed as part of the development details of these features identified will need to be specific and detailed on submitted plans (i.e. details regarding locations, dimensions and numbers will need to be provided) and achievable.

The Ecologist has therefore requested that a number of conditions are attached to any grant of planning permission.

It is noted that landscaping is a reserved matter and, as such, these details will be considered at a later stage. It is, therefore, not necessary to condition the submission of a detailed landscaping scheme on this application.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions on lighting the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Llanfair Caereinion is located within an area which is considered that the Welsh Language has been identified as being important to the social, cultural and community fabric.

In the 2011 census the Llanfair Caereinion Ward reported that 36% of the population spoke Welsh. This is a 3% decrease from the 2001 census which stated that 39% of the population of Llanfair Caereinion spoke Welsh. The development of a single dwelling in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

### Foul and Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

Policy DC10 of the Powys Unitary Development plan seeks to ensure that development proposals are only permitted where they can be adequately served by the public foul sewerage system.

Severn Trent Water were consulted on the application and stated that as the proposal has minimal impact on the public sewerage system they have no objections to the proposals and do not require a drainage condition to be applied. Environmental Health were also consulted and stated that provided the proposed dwelling is connected to the mains foul drainage I have no objection to the application.

In light of this, subject to appropriately worded conditions it is considered that surface water drainage can be appropriately managed.

### **Other Legislative Considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

## Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

## Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **RECOMMENDATION**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

### **Conditions:**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
6. The gradient of the access shall be constructed so as not to exceed 1 in 20 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
7. The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
8. Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 34 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
9. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
10. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom to a maximum of 3 excluding any garage space provided. The parking and turning areas shall be retained for their designated use in perpetuity.
11. The width of the access carriageway, constructed as condition 9 above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
12. No storm water drainage from the site shall be allowed to discharge onto the county highway.



13. Prior to commencement of development a Tree and Hedgerow Protection and Replacement Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
14. Prior to the commencement of development a detailed lighting design scheme to take into account any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval and implemented as approved and maintained thereafter.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
6. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
7. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
8. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
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11. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
12. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
13. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

14. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

## **Informative Notes**

### Building Control

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

### Wales and West Utilities

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

### Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

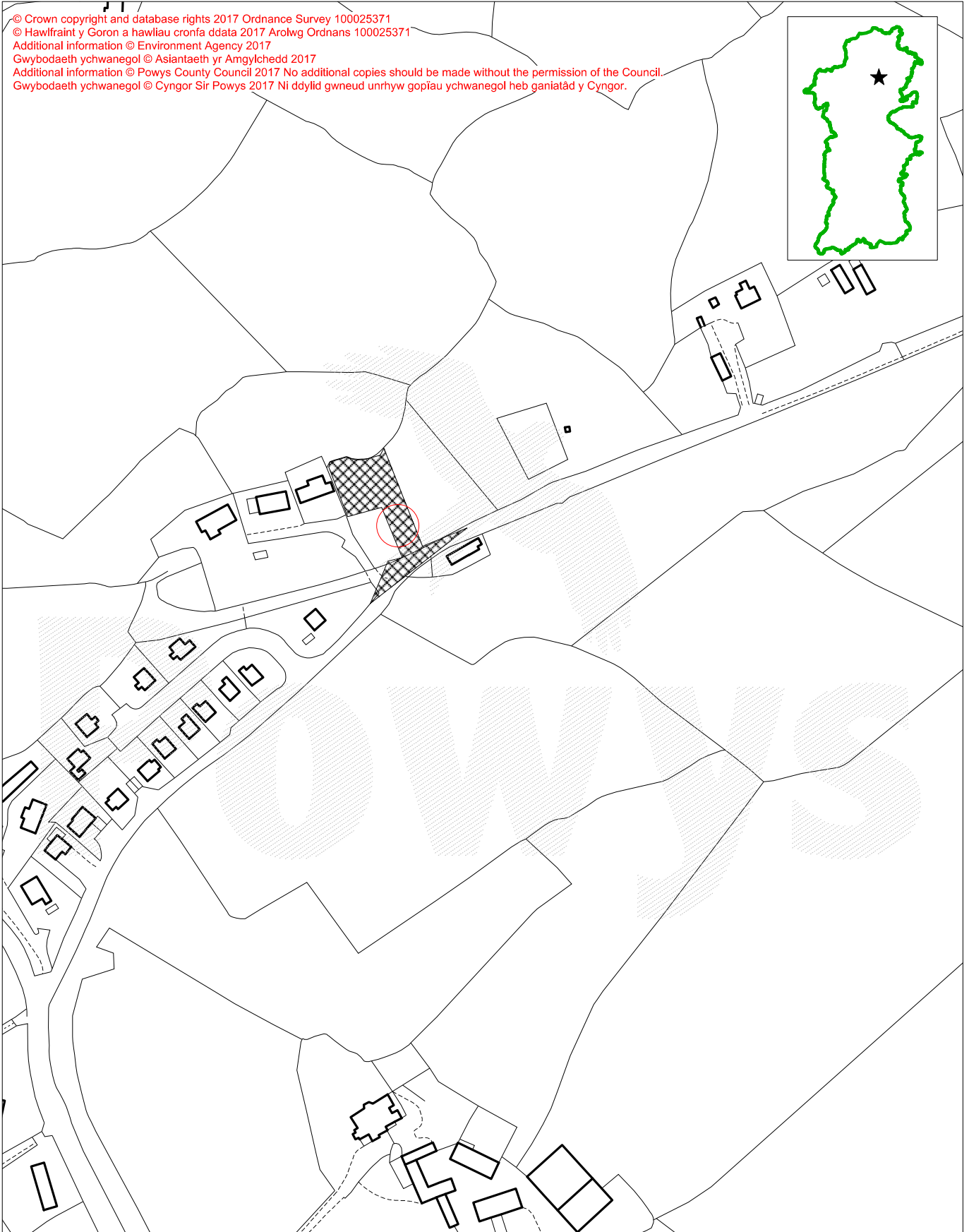
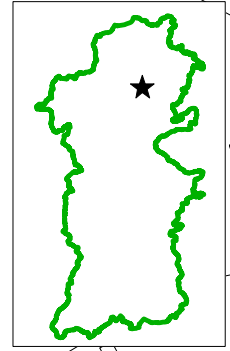
The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

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Case Officer: Sara Robinson- Planning Officer  
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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.6

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	VAR/2017/0021	<b>Grid Ref:</b>	285764.13 308481.27
<b>Community Council:</b>	Glantwymyn	<b>Valid Date:</b>	<b>Officer:</b> 02/08/2017 Dunya Fourie
<b>Applicant:</b>	Mr G Davies, Bryn Uchel Isaf Caravan Park, Cwmllinau, Machynlleth, Powys, SY20 9PE.		
<b>Location:</b>	Bryn Uchel Isaf Caravan Park, Cwmllinau, Machynlleth, Powys, SY20 9PE.		
<b>Proposal:</b>	Application to modify section 52 legal agreement attached to planning permission M12131 (occupancy restriction)		
<b>Application Type:</b>	Discharge/ variation of Section 106 Agreement		

### The reason for Committee determination

The application was called in by the Local Member on the grounds of public interest in the application.

### Site Location and Description

The site concerns Bryn Urchel caravan park, the Park is located east of Cwmllinau and is accessed via an unclassified road off the A470 Trunk Road.

This application seeks consent to remove clause 7 of the Third Schedule of the Section 52 legal agreement, this legal agreement forms part of planning consent M12131 which granted consent for Bryn Urchel caravan park.

The wording of clause 7 is as follows:

*“Static caravans stationed on the site shall be used for holiday purposes only and shall not be used for human habitation between 1<sup>st</sup> November and the last Friday before Good Friday, apart from a fortnight’s occupation over Christmas and New Year.”*

### Consultee Response

Glantwymyn Community Council

*E mail of the 18<sup>th</sup> October 2017*

The members of Glantwymyn Community Council discussed this application at a recent meeting of the Council and unanimously agreed to object to any modification of the Section 52 Legal Agreement at Bryn Uchel Isaf Caravan Park in order to avoid any increased pressure on local resources in the Cwmlline area.

## **Planning History**

NMA/2017/0065 - Application for a non-material amendment to planning permission M12131 in respect of removal of condition 8 to allow the caravan park to be occupied throughout the year for holiday purposes.

M12131 - permanent permission for caravan park – Conditional Consent 25<sup>th</sup> September 1994

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (9<sup>th</sup> Edition, November 2016)

Technical Advice Note 13-Tourism (1997)

WCG 016/2014 The Use of Planning Conditions for Development Management (October 2014)

### Local Planning Policy-Unitary Development Plan for Powys (March 2010)

SP8-Tourism Developments

GP1- Design and Energy Conservation

GP2-Planning Obligations

TR1- New Tourism Developments

TR2- Tourism Attractions and Development Areas

TR2-Tourism Attractions and Development Areas

TR6- Holiday Static Caravan Sites

TR7-Touring Caravan and Camping Sites

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of varying the Section 52 Agreement

TAN 13 recognises that holiday makers are drawn to the most attractive and, therefore, usually most protected areas of countryside and coastline. Bryn Uchel is located where provision of permanent housing would be contrary to national and/or local policies; as such it is reasonable to impose a condition specifying its use as holiday accommodation.

UDP policy TR6 concerns holiday static caravan sites, the reasoned justification and Criteria C of the policy confirm a condition will be imposed on any planning permission for static caravan sites to ensure that they do not become used for permanent residential use but continue to contribute to the local tourism economy. TAN 13 and Policy TR6 does not specify a timeframe for occupancy, only that holiday units shall not be occupied as a person's main residence. As such it is considered a condition without applying a timed seasonal restriction is sufficient to ensure the static caravans would not be used as permanent residential accommodation.

Condition 8 of planning consent M12131 seeks to control the occupancy of the consented caravan units, the condition reads:

*“The holiday static caravans hereby approved shall be occupied as holiday accommodation only and shall not be occupied as a person’s sole or main place of residence. An up to date register shall be kept at the holiday accommodation hereby permitted and be made available for inspection by the Local Planning Authority upon request. The register shall contain details of the names of all of the occupiers of the accommodation, their main home address and their date of arrival and departure from the accommodation”.*

Wording of condition 8 was modified under application NMA/2017/0065 to update the condition in line with Circular 016/2014.

In line with Circular 016/2014, the occupancy of any forthcoming application seeking consent for holiday units is controlled via condition. Condition 8 of planning consent M12131 (as amended) restricts the occupancy of the consented caravans in line with current planning policy. Paragraph 4.21 of Circular 016/2014 confirm that local planning authorities should seek to overcome planning objections, where appropriate, and confirm matters required by condition should not be duplicated in a planning obligation.

Based on the current national policy context and acknowledging that the occupancy of the caravans would remain restricted under condition 8 of planning consent M12131, the proposal to remove clause 7 of the Section 52 legal agreement is considered acceptable.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of ‘protected characteristics’, namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **RECOMMENDATION**

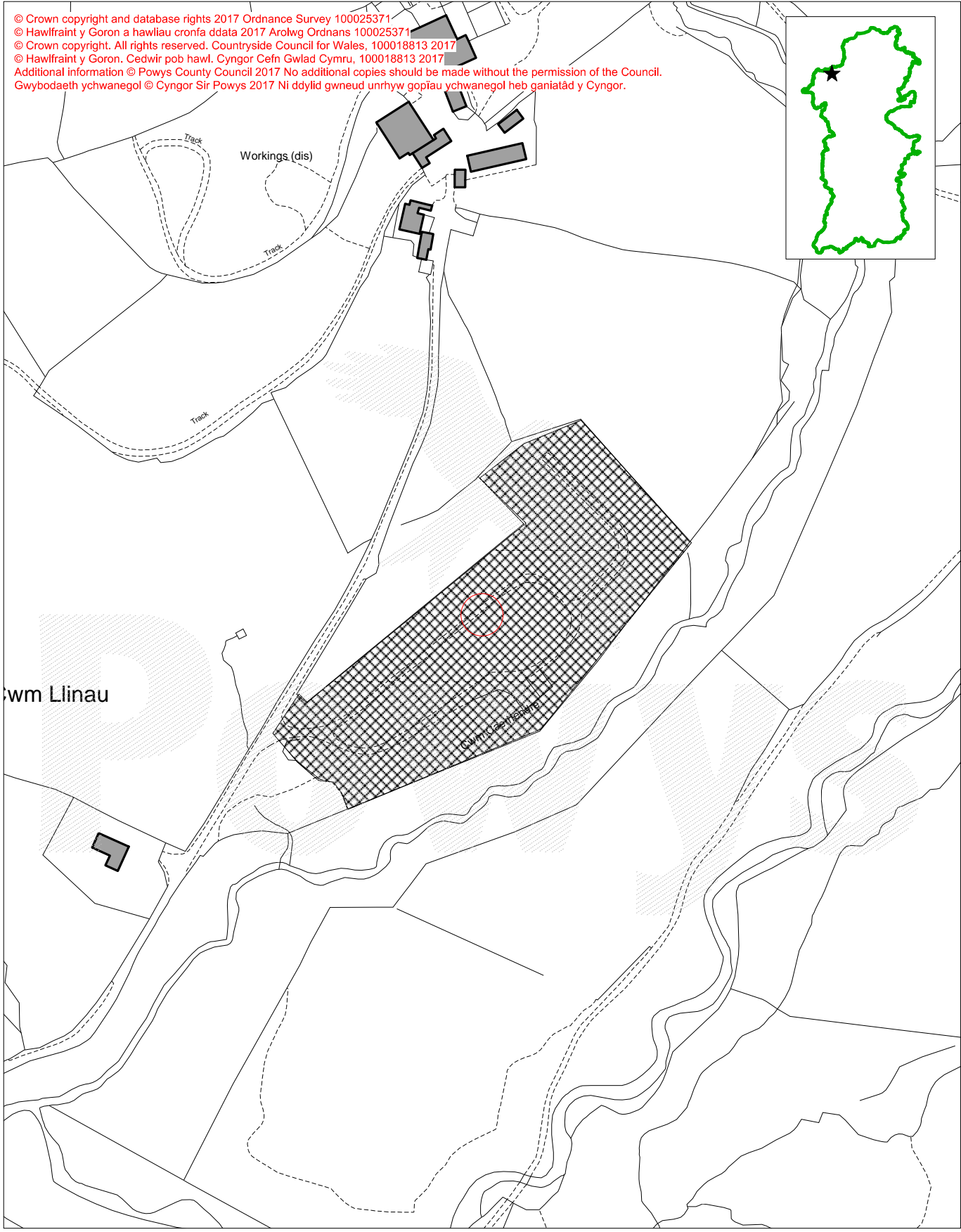
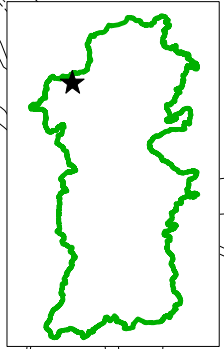
Clause 7 of the Section 52 agreement in association with planning consent M12131 no longer serves a meaningful planning purpose, as such the recommendation is one of approval for the modification of the Section 52 legal agreement.

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Case Officer: Dunya Fourie- Planning Officer  
Tel: 01597 82 7319 E-mail:dunya.fourie@powys.gov.uk

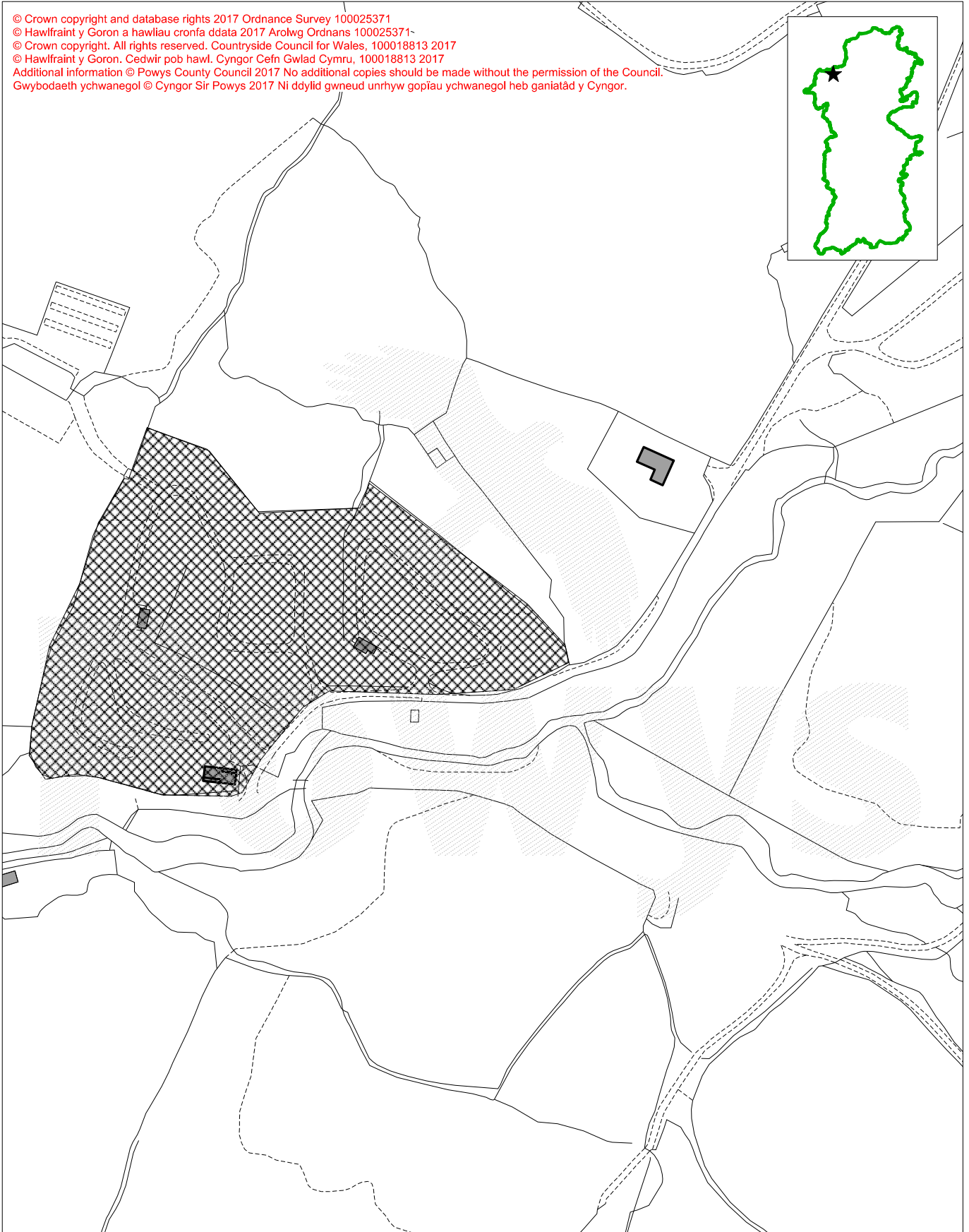
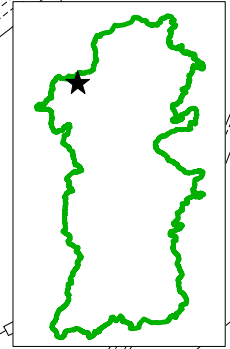


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# 5.7

## Planning, Taxi Licensing and Rights of Way Committee Report

**Application No:** P/2017/0692

**Grid Ref:** 317980.73 317368.65

**Community Council:** Meifod

**Valid Date:** 28/06/2017  
**Officer:** Eddie Hrustanovic

**Applicant:** House Martin Properties, Bwlch y Cibau, Bryn Gwyn, Llanfyllin, Powys SY22 5LJ

**Location:** Land adjacent to Llwynderw, Bwlch y Cibau, Powys SY22 5LN

**Proposal:** Full: Erection of 4 no. detached dwelling houses with integral garages and 2 no. semi-detached dwelling houses, formation of vehicular access road, installation of sewage treatment plant and all associated works

**Application Type:** Application for Full Planning Permission

### The reason for Committee determination

The proposed development is a departure from the development plan and is recommended for approval.

### Site Location and Description

The site subject to this application is located adjacent to the Bwlch-y-Cibau development boundary, therefore for the purposes of the Powys Unitary Development Plan (UDP) is defined as open countryside. Powys UDP notes that Bwlch-y-Cibau is a small and attractive village situated astride the A490 to the south-east of Llanfyllin. The limited level of services, especially the absence of mains sewerage facilities, together with the existing small scale of the village and the sensitivity of its Conservation Area, mean that only a modest amount of growth would be considered acceptable. Consequently only residential development on single plots or on sites consisting of small groups of dwellings is considered appropriate and Bwlch y Cibau has therefore been classified as a Small Village.

The village benefits from the following facilities; Church, Public House, Community Hall and Car Park.

The site is located on the eastern side of the village on land adjacent to dwelling known as Llwynderw, and it is currently agricultural land. To the north the site is bound by A490 highway, while to the south the land is also in agricultural use. The Conservation Area is centred around Christ Church and extends from the Old School House in the south to Bryn Bowlia in the north including the Vicarage to the west. Bwlch-y-Cibau is approximately 9 miles north west of Welshpool and approximately 3 miles south east of Llanfyllin.

The application is submitted in full for the construction of 6 dwellings in total (4 no. open market detached houses with integral garages and 2 no. affordable semi-detached dwellings), formation of vehicular access road, installation of sewage treatment plant and all associated works at land adjacent to. The site is to be accessed off the A490 highway.

## **Consultee Response**

### Meifod CC

Members of Meifod Community Council have agreed to support this application. They feel that further housing development in Bwlchycibau is required, but would make the proviso that the access is carefully considered. Access onto the A490 is on to a busy stretch of road, and all means possibly must be considered to make this safe.

### Highways Dept north

The following conditions are in relation to the amended drawings received on the 6 October 2017.

The proposed footway along the Class I A490 will need some minor amendments in order to ensure pedestrian safety is maintained. However it is felt that the amendments can be agreed with the submission of a detailed application.

Wish the following recommendations/Observations be applied;

1. Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering details of the proposed new footway along the A490.
2. Prior to the occupation of any dwelling the footway, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.
3. The geometry and dimensions of the new access shall be in accordance with the details on drawing number 7 dated September 2017.
4. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10.0 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
5. No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in an easterly direction and 90 metres in a westerly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the

visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

6. Before any other development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

7. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

8. Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

9. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

10. No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### Wales & West Utilities

Based on the information given and the address provided, Wales & West Utilities have no apparatus in the area of your enquiry.

#### STW

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### Environmental Health

As the proposed properties will be served by a private treatment plant, I have no objection to the application provided that the consent to discharge is granted and confirmed by the Planning Authority prior to the commencement of work. The reason being is that there are no easy other foul drainage alternatives, there is no mains drainage in Bwlch y Cibau, and insufficient room for septic tanks and soakaways within the proposed area. There is currently an old foul drainage filter bed in front of proposed plots 3 and 4 which serves a number of the terraced properties in Bwlch y Cibau, the community centre/old school and

school house. There is a rainwater pipe serving the same properties also crossing the proposed land. I would strongly recommend that prior to commencement of construction work that these pipes be identified and protected during construction.

### Built Heritage Officer

Thank you for consulting me on the above application. The site is adjacent to a number of historic assets;

Bryngwyn Registered Historic Park and Garden  
Scheduled Ancient Monument Cadw ID MG029 Bryngwyn Wood Camp  
Scheduled Ancient Monument Cadw ID MG210 Bwlch y Cibau Enclosure  
Scheduled Ancient Monument Cadw ID MG077 Bwlch y Cibau Dyke  
Listed Building Cadw ID 8699 Christ Church Parish Church  
Listed Building Cadw ID 8670 Sundial in Churchyard to Christ Church  
Listed Building Cadw ID 15959 Lych-gate to Christ Church Parish Church  
Listed Building Cadw ID 15960 Drinking Fountain  
The site lies adjacent to Bwlch y Cibau Conservation Area

I note that Cadw who are the consultee on the setting of Scheduled Ancient Monuments and Registered Historic Parks and Gardens have commented on these assets and as such I shall comment only on the setting of the listed buildings and the conservation area.

### *Listed Buildings*

I am mindful of the advice in Sections 16 and 66 of the Planning (Listed Buildings and Conservation areas) Act 1990, which require authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. The setting is often an essential part of a building's character especially if a park, garden or grounds have been laid out to complement its design or function. Also, the economic viability as well as the character of historic buildings may suffer and they can be robbed of much of their interest and of the contribution they make to townscape or the countryside if they become isolated from their surroundings, e.g. by new traffic routes, car parks, or other development."

However, I would also refer to more recent guidance in paragraph 6.5.11 of Planning Policy Wales 9th edition 2016 which states, " Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses."

Powys Unitary Plan policies reflect national legislation and guidance; Powys Unitary Development Plan Policy Env14 (Listed Buildings) states that "proposals for development unacceptably adversely affecting a listed building or its setting will be refused". UDP Policy SP3b states that "proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and heritage conservation and historic interest". UDP Policy GP1 states "development proposals will only be permitted if they take into account the following – the design, layout, size, scale, mass and materials of the



development shall complement and where possible enhance the character of the surrounding area”.

I am also aware of UDP policy SP3 b which states that “Proposals for development should seek to protect, conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological, architectural and, heritage conservation and historic interest”.

TAN 24 advises (section 1.10) that Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) were published in 2011 and provide the basis upon which Cadw discharges certain statutory duties on behalf of the Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process.

There are six principles.

1. Historic assets will be managed to sustain their values.
2. Understanding the significance of historic assets is vital.
3. The historic environment is a shared resource.
4. Everyone will be able to participate in sustaining the historic environment.
5. Decisions about change must be reasonable, transparent and consistent.
6. Documenting and learning from decisions is essential.

Applicants and other organisations are strongly encouraged to make use of these Conservation Principles when considering development proposals and other works to historic assets. It is important for those responsible to understand the heritage values and assess the significance of the historic assets that will be affected.

Conservation Principles prepared by Cadw in paragraph 5.4 advises that when considering change, public authorities will give due importance of the heritage values of a site when considering the sustainability of proposals submitted to them.

Paragraph 39 states Changes which would harm the heritage values of an historic asset will be unacceptable unless:

- a..the changes are demonstrably necessary either to make that asset sustainable, or to meet an overriding public policy objective or need; and
- b. there is no reasonably practicable alternative means of doing so without harm; and
- c. that harm has been reduced to the minimum consistent with achieving the objective; and
- d. it has been demonstrated that the predicted benefit decisively outweighs the harm to the values of the asset, considering;
  - its comparative significance;
  - the impact on that significance; and
  - the benefits to the asset itself and/or the wider community or society as a whole.

The historic environment is defined in the document as an environment made up of individual historic features, archaeological sites and historic buildings as well as the landscapes in which they are found. Any part of the historic environment to which people have given a distinctive historical association or identity is considered here to be an historic asset. The document continues with the following advice on page 15. Every reasonable effort should be made to eliminate or minimize adverse impacts on historic assets.

Ultimately, however, it may be necessary to balance the benefit of the proposed change against the harm to the asset. If so, the weight given to heritage values should be proportionate to the importance of the assets and the impact of the change upon them. The historic environment is constantly changing, but each significant part of it represents a finite resource. If it is not sustained, its heritage values will be eroded or lost. In addition, its potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

“Conservation principles” establishes Values which should be attributed to heritage assets including;

- Evidential Value,
- Historical Value,
- Aesthetic Value,
- Communal value.

Conservation Principles identifies principles that have to be addressed when considering the above values.

#### *Evidential Value*

This derives from those elements of an historic asset that can provide evidence about past human activity.

Christ Church was built in 1862 with a consolidation from the adjacent parishes and built to the design of Sir George Gilbert Scott at the expense of Mrs Williams of Bryngwyn Hall, who also funded the erection of the school and rectory in 1870. The building was included on the statutory list as a remarkably complete example of a rural Victorian church for a new parish, exhibiting mid C19 patronage by local gentry.

The sundial is dated 1895 and is a bulbous baluster pedestal of red sandstone set on a square block on an octagonal stone plinth, inscribed GLORY:BE:TO:THEE:O:LORD by Elliot Bros of London. The sundial was erected by Frances, 2nd daughter of Martin and Mary Williams of Bryngwyn to the beloved memory of her husband Charles Aldenburg Bendinct of Indio Bovey Tracey married 20th January 1858".

The Lych gate dates from 1860-70 and is sited at the crossroads at the centre of the village, and the corner of the sloping churchyard.

The drinking fountain which dates from c1895 is sited on the grass verge opposite the Lych Gate of Christ Church parish church. Ashlar limestone, in the form of a wall with offsetting ends rising to gabled copings, the central section of which rises a further course and similarly coped but adorned with a triangular gable. The cantilevered semi-circular bowl has an inscription in remembrance to R Williams of Bryngwyn.

#### *Historical Value*

An historic asset might illustrate a particular aspect of past life or it may be associated with a notable family, person, event or movement. These illustrative or associated values of an

historic asset may be less tangible than its evidential value but will often connect past people, events and aspects of life with the present and are not so easily diminished by change as evidential values and are harmed only to the extent that adaption has obliterated them or concealed them.

All four of the listed buildings at Bwlch y Cibau are associated with the Bryngwyn Estate and are of interest as exhibiting mid C19 patronage by local gentry.

### *Aesthetic Value*

This derives from the way people draw sensory and intellectual stimulation from an historic form through its form, external appearance or setting. The building retains its physical appearance of a mill which was formerly significant in the towns industrial past and the building evoke a sense of the past and the history of the building and the town.

### *Communal Value*

The third principle contained within Conservation Principles is that heritage assets are a shared resource, valued by people as part of their cultural and natural heritage, and gives distinctiveness, meaning and quality to the places where we live providing a sense of continuity and a source of identity.

The Principles identify heritage assets as having the potential to give distinctiveness, meaning and quality to the places in which people live, and provide people with a sense of continuity and a source of identity will be diminished. The historic environment is a social and economic asset and a cultural resource for learning and enjoyment.

The proposal relates to the erection of 4 detached dwellinghouse and 2 semi detached properties immediately outside the conservation area. The application is made in full with all matters to be considered at this stage.

The properties are to be sited on the south side of the A490 on the approach to Bwlch y Cibau.

Plot 1 is furthest from the crossroads at Bwlch y Cibau and House type 1 and has been designed to replicate a barn with a large roof and irregular windows. This house type would be at the entrance to Bwlch y Cibau and is agricultural in character.

House type 2 is a large stone faced property on the front elevation with attached garage with a small projecting gable, with a bay window and external chimney.

House type 3 is similar in that it is stone faced on the front elevation, but has a central gablet.

House type 4 is similar to house type 2 only with a hipped roof adjacent to the small projecting gablet and a dormer on the front elevation.

House type 5 are a pair of semi-detached properties that again are stone faced on the front elevation and are simple in their design however have a lancet style window on the gable

reflecting their location adjacent to the church and another new property in Bwlch y Cibau. This feature has also been added to house type 2 which is a nice coordinating touch.

In addition to the setting of the listed buildings the proposal is adjacent to the conservation area of Bwlch y Cibau

In considering whether the proposals affect the character and appearance of Bwlch Y Cibau Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act states that “ special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”.

This advice is repeated in 6.5.19 of Planning Policy Wales 9th Edition which advises of the general presumption for the preservation and enhancement of the character and appearance of a conservation area or its setting. Section 6.4 of TAN 24 which advises that local planning authorities must also give special attention to the desirability of preserving or enhancing conservation areas when taking planning decisions.

The annex to TAN 24 Managing Conservation Areas in Wales advises in section 6.4 that “Local planning authorities are involved in the management of conservation areas on a day-to-day basis through their duty to advise on, consider and respond to planning applications for new development. Because local planning authorities must aim to preserve or enhance the character or appearance of conservation areas, they should scrutinise planning applications closely with these objectives in mind.”

Local Plan Policies reflect national guidance, Policy ENV 11 of the Powys Unitary Development Plan, which states that; Proposals for development within or adjoining a conservation area should be of a high quality design and should preserve or enhance the character or appearance of that area. The council will oppose inappropriate developments that would significantly detract from that character. Unitary Development Plan policy UDP SP3 of the Powys Unitary Development Plan, criteria B of which states that, Proposals for development should seek to protect conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological architectural heritage conservation and historic interest

The application is made in full which enables a consideration of the impact of the proposal on the setting of the listed buildings and the character and appearance of the conservation area to be made. The proposed dwellings have been designed to reflect the character of the existing properties at Bwlch y Cibau by their use of stone and the variation in house design is refreshing in that the properties appear more organic and evolved as opposed to several properties of the same design. The use of stone is welcomed and whilst the layout and grain differs from the remainder of Bwlch y Cibau it is acknowledged that provision has to be made for safe access and egress onto the highway that was not required when the other properties were constructed.

Given that the properties have been designed to complement the existing properties at Bwlch y Cibau and their location away from the cluster of listed buildings, I would not object to the proposal in terms of the setting of listed buildings or the character or appearance of the conservation area.

I would question whether bay windows are appropriate on the front elevation and whether a flush window would be more appropriate. However I would not ask for amended plans in this regard.

Subject to appropriate conditions in terms of materials, I can confirm that I would have no objection to the proposal on built heritage grounds.

#### Affordable Housing Officer

I am happy with the application as long as the following guidelines are adhered to:

- All Affordable units will have to be constructed to Welsh Government Design Quality Requirements which include all of the Lifetime Homes and Secured by Design Standards.
- All units will have to meet the floor areas specified in Powys County Council's Affordable Housing Supplementary Planning Guidance.
- The Design Quality Requirements will be those current at the time of the detailed planning application.
- All completed Affordable units that are being sold must reflect local incomes to the local area and shall be bound by the Affordable Housing policies as detailed in the Affordable Housing for Local Needs Supplementary Guidance sections HP7, HP8 or HP9 sites.

#### CADW

Thank you for your letter of 5 July 2017 inviting our comments on the above planning application.

#### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development. Our assessment of the application is given below.

#### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site.

We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

#### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), but not significant, damage to the setting of scheduled monument Bwlch-y-Cibau Enclosure MG210 but will cause no damage to the settings of scheduled monuments Bryngwyn Wood Camp MG029 and Bwlch y Cibau Dyke MG077.

Technical Advice Notes and circular guidance.

PPW (Chapter 6 — The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

#### Assessment

The proposed development is located within the vicinity of the following scheduled monuments:

MG029 Bryngwyn Wood Camp  
MG027 Bwlch y Cibau Dyke  
MG210 Bwlch-y-Cibau Enclosure

The proposed development is located some 21 Om east of scheduled monument MG210 Bwlch-y-Cibau Enclosure. The monument comprises the remains of an earthwork/stone-built enclosure. The date or precise nature of the enclosure is unknown, but it is likely to be later prehistoric or medieval. The enclosure is an oval univallate enclosure, some 80m east — west and 45m north-south internally and is situated on top of a steep scarp (to the south). A rampart survives clearly only on the southern arc and a slight counterscarp ditch survives on the northern side. The monument is located in a good defensive position and may have been sited in order to control access along the Coiwyn Brook with long views towards its confluence with the River Vyrnwy to the southeast.

Views from the monument towards the proposed development are screened especially in summer by existing vegetation; however, where they are possible the development will be seen as an extension of the existing village. The development will interfere with a medium distance view from the southeast towards the monument from the A490.

Currently this view is across the flat open field in which the proposed development will be built and the steep scarp on which the monument is situated is a prominent feature albeit with the buildings of the village in front of it. It is therefore our opinion that the proposed development will cause slight damage to the setting of scheduled monument MG210 but this damage will not be significant.

The scheduled monument MG029 Bryngwyn Wood Camp is located some 420m northeast of the application area and the scheduled monument MG077 Bwlch y Cibau Dyke is located some 600m southeast of the application area however intervening vegetation will block all views between these monuments and the proposed development. Consequently the proposed development will cause no damage to the settings of these monuments. In conclusion the proposed development will cause slight, but not significant, damage to the setting of scheduled monument Bwlch-y-Cibau

Enclosure MG210 but will cause no damage to the settings of scheduled monuments Bryngwyn Wood Camp MG029 and Bwlch y Cibau Dyke MG077. The proposed development is also located some 110m southeast of the boundary of the registered Bryngwyn Historic Park and Garden. However, the topography, existing buildings and vegetation will block views of the proposed development from the registered historic park and garden. Consequently the proposed development will cause no damage to the setting of the registered historic park and garden.

### **Public Response**

None received

### **Planning History**

No history

### **Principal Planning Constraints**

- Conservation area
- A490 County Highway

### **Principal Planning Policies**

#### National Planning Policy

Planning Policy Wales (Edition 9, 2016)

TAN 1 - Joint Housing Land Availability Studies (2015)

TAN 2 - Planning and Affordable Housing (2006)

TAN 5 - Nature Conservation and Planning (2009)

TAN 6 - Planning for Sustainable Rural Communities (2010)

TAN 12 - Design (2016)

TAN 18 - Transport (2007)

TAN 20 - Planning and the Welsh Language (2017)

TAN 23 – Economic Development (2014)

TAN 24 – The Historic Environment (2017)

#### Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy

UDP SP5 - Housing Developments

UDP GP1 - Development Control

UDP GP3 - Design and Energy Conservation

UDP GP4 - Highway and Parking Requirements

UDP GP5 – Welsh Language and Culture

UDP HP3 - Housing Land Availability  
UDP HP4 - Settlement Development Boundaries and Capacities  
UDP HP6 - Dwellings in the Open Countryside  
UDP DC10 - Mains Sewage Treatment  
UDP DC11 - Non-mains Sewage Treatment  
UDP DC13 - Surface Water Drainage  
UDP DC8 - Public Water Supply  
UDP DC9 - Protection of Water Resources  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV7 - Protected Species  
UDP ENV11 - Development in Conservation Areas  
UDP ENV12 - Permitted Development in Conservation Areas  
UDP ENV13 - Demolition in Conservation Areas  
UDP ENV14 – Listed Buildings  
UDP ENV17 - Ancient Monuments and Archaeological Sites  
UDP TR2 – Tourist Attractions

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

Outside of settlement boundaries, UDP Policy HP4 applies and states that 'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

### Housing land supply



The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainable location

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development.

Although located in the open countryside, the site adjoins the settlement development boundary of Bwlch y Cibau (defined as a Small Village within the UDP). Although the village has Church, Public House, Community Hall, Car Park and Public Telephone it lacks of basic services such as shop. Llanfyllin, Area Centre is located approximately 3 miles away from Bwlch Y Cibau and Officers do recognise that this could lead to more reliance of private vehicles contrary to Planning Policy Wales. However a bus route does run through the settlement providing access to the wider area.

Careful consideration should be given to the sustainable growth of the settlement however it is considered that, on balance, the proposed additional residential development in this location would accord with the provisions of Planning Policy Wales in so far as it is a sustainable location.

### Siting, Design and External Appearance

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The site is relatively flat in nature and the proposal includes a build form to closely resemble existing dwellings within the village. The proposal relates to the erection of 4 detached dwelling houses and 2 semi-detached properties immediately outside the conservation area. The application is made in full with all matters to be considered at this stage.

The properties are to be sited on the south side of the A490 on the approach to Bwlch y Cibau from Welshpool direction.

Plot 1 is furthest from the crossroads at Bwlch y Cibau and House type 1 and has been designed to replicate a barn with a large roof and irregular windows. This house type would be at the entrance to Bwlch y Cibau and is agricultural in character. The proposed dwelling is to measure 18.2m x 6.6m with a height of 8.2m (approximately 240m<sup>2</sup>).

House type 2 is a large stone faced property on the front elevation with attached garage with a small projecting gable, with a bay window and external chimney. The proposed dwelling is to measure 16.6m x 6.7m with a height of 8.8m (approximately 220m<sup>2</sup>).

House type 3 is similar in that it is stone faced on the front elevation, but has a central gablet. The proposed dwelling is to measure 11.2m x 6.8m with a height of 9.3m (approximately 150m<sup>2</sup>).

House type 4 is similar to house type 2 only with a hipped roof adjacent to the small projecting gablet and a dormer on the front elevation. The proposed dwelling is to measure 15.3m x 6.7m with a height of 7.7m (approximately 205m<sup>2</sup>).

House type 5 are a pair of semi-detached properties that again are stone faced on the front elevation and are simple in their design however have a lancet style window on the gable reflecting their location adjacent to the church and another new property in Bwlch y Cibau. This feature has also been added to house type 2 which is considered acceptable. Each dwelling will measure 5.2m in width, 9.4m in length and 7.2m in height (approximately 97m<sup>2</sup>).

On the basis of the plans provided, detailing a mix of dwelling types and sizes, it is considered that the application site is capable of accommodating 6 dwellings without unacceptably adversely affecting the character and appearance of the area compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5 in that it does make a positive contribution to the local environment through imaginative and good quality design.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site is considered to be well connected to the village being adjacent to the village boundary and the cluster of existing dwellings. It is considered that the siting of the proposed dwellings is acceptable in the proposed location. It is also considered that the proposed site is well integrated within the existing rural settlement and would not have a significant adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policies ENV2 and TR2 of the Powys Unitary Development Plan 2010.

### Residential Amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

A layout demonstrates that the application site is capable of accommodating the proposed dwellings together with associated highway and amenity provision whilst safeguarding the amenities enjoyed by occupants of neighbouring properties.

The site is bounded by agricultural fields to the south and east, while on its north elevation the site is bounded by County Highway, some 50 metres to the west of the site the existing dwelling known as Llwynderw with its domestic buildings is located with a strip of land between towards the development site. Following consultation with Environmental Health no objection has been received in relation to its impact on neighbour amenity.

Taking into account the character of existing development in the locality and the highway, it is considered that the proposed layout clearly demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

### Highway Safety and Movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The scheme is proposing construction of new access pint onto A490 County Highway on the north elevation of the proposed site together with the construction of a small section of pedestrian footway towards the village. The plans clearly indicate that each dwelling will have sufficient parking and turning area within the site without detrimental impact on safety and vehicular movements to/from the site.

In light of the comments received from Highway Authority and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movements subject of inclusion of relevant highways conditions as requested by the Highway Authority. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4.

### Conservation Area and Heritage

Policy ENV11 of the Powys UDP states that proposals for development within or adjoining a conservation area should be of high quality design and should preserve or enhance the character or appearance of that area. Inappropriate developments that would significantly detract from that character will be opposed.

The Heritage Officer notes that the application site is adjacent a number of heritage assets;

Bryngwyn Registered Historic Park and Garden  
Scheduled Ancient Monument Cadw ID MG029 Bryngwyn Wood Camp  
Scheduled Ancient Monument Cadw ID MG210 Bwlch y Cibau Enclosure  
Scheduled Ancient Monument Cadw ID MG077 Bwlch y Cibau Dyke  
Listed Building Cadw ID 8699 Christ Church Parish Church  
Listed Building Cadw ID 8670 Sundial in Churchyard to Christ Church

Listed Building Cadw ID 15959 Lych-gate to Christ Church Parish Church  
Listed Building Cadw ID 15960 Drinking Fountain  
The site lies adjacent to Bwlch y Cibau Conservation Area

The Officers note that the proposal relates to the erection of 4 detached dwelling house and 2 semi-detached properties immediately outside the conservation area. The application is made in full with all matters to be considered at this stage. The properties are to be sited on the south side of the A490 on the approach to Bwlch y Cibau.

Plot 1 is furthest from the crossroads at Bwlch y Cibau and House type 1 and has been designed to replicate a barn with a large roof and irregular windows. This house type would be at the entrance to Bwlch y Cibau and is agricultural in character.

House type 2 is a large stone faced property on the front elevation with attached garage with a small projecting gable, with a bay window and external chimney.

House type 3 is similar in that it is stone faced on the front elevation, but has a central gablet.

House type 4 is similar to house type 2 only with a hipped roof adjacent to the small projecting gablet and a dormer on the front elevation.

House type 5 are a pair of semi-detached properties that again are stone faced on the front elevation and are simple in their design however have a lancet style window on the gable reflecting their location adjacent to the church and another new property in Bwlch y Cibau. This feature has also been added to house type 2 which is considered acceptable.

In addition to the setting of the listed buildings the proposal is adjacent to the conservation area of Bwlch y Cibau

In considering whether the proposals affect the character and appearance of Bwlch Y Cibau Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 Act states that *“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.

The Officers note that this advice is repeated in 6.5.19 of Planning Policy Wales 9<sup>th</sup> Edition which advises of the general presumption for the preservation and enhancement of the character and appearance of a conservation area or its setting. Section 6.4 of TAN 24 which advises that local planning authorities must also give special attention to the desirability of preserving or enhancing conservation areas when taking planning decisions.

The annexe to TAN 24 Managing Conservation Areas in Wales advises in section 6.4 that *“Local planning authorities are involved in the management of conservation areas on a day-to-day basis through their duty to advise on, consider and respond to planning applications for new development. Because local planning authorities must aim to preserve or enhance the character or appearance of conservation areas, they should scrutinise planning applications closely with these objectives in mind.”*

The Officers note that Local Plan Policies reflect national guidance, Policy ENV11 of the Powys Unitary Development Plan, which states that; Proposals for development within or

adjoining a conservation area should be of a high quality design and should preserve or enhance the character or appearance of that area. The council will oppose inappropriate developments that would significantly detract from that character. Unitary Development Plan policy UDP SP3 of the Powys Unitary Development Plan, criteria B of which states that, Proposals for development should seek to protect conserve and wherever possible enhance sites and features of historic and built heritage importance including those of archaeological architectural heritage conservation and historic interest

The application is made in full which enables a consideration of the impact of the proposal on the setting of the listed buildings and the character and appearance of the conservation area to be made. It is noted that the proposed dwellings have been designed to reflect the character of the existing properties at Bwlch y Cibau by their use of stone and the variation in house design is refreshing in that the properties appear more organic and evolved as opposed to several properties of the same design. Development Management considers that the use of stone is welcomed and whilst the layout and grain differs from the remainder of Bwlch y Cibau it is acknowledged that provision has to be made for safe access and egress onto the highway that was not required when the other properties were constructed.

Given that the properties have been designed to complement the existing properties at Bwlch y Cibau and their location away from the cluster of listed buildings, Development Management considers that the proposal would not have adverse negative effect on the setting of listed buildings or the character or appearance of the conservation area.

In respect of heritage assets in the area, CADW notes that the proposed development is located within the vicinity of the following scheduled monuments;

MG029 Bryngwyn Wood Camp  
MG077 Bwlch y Cibau Dyke  
MG210 Bwlch y Cibau Enclosure

CADW also notes that the proposal is located some 110 metres south east of the boundary of the registered Bryngwyn Historic Park and Garden. Given the topography, existing buildings and vegetation which will block views of the proposed development from the registered historic park and garden, CADW therefore confirms that the proposed development will cause no damage to the setting of the registered historic park and garden.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy ENV11 and ENV14 of the Powys UDP in respect of Conservation Area and TAN 24 (The Historic Environment 2017).

#### Foul drainage

The proposed properties will be served by a private treatment plant and Environmental Health Officer confirms that there no objection to the application provided that the consent to discharge is granted and confirmed by the Planning Authority prior to the commencement of work. Members should note that Discharge Consents are granted by Natural Resources Wales under different Legislation separate from Planning.

On the basis that no environmental impacts have been raised throughout the consultation process and that Environmental Health did not object, it is considered that the proposed

means of foul disposal is acceptable and compliant with the relevant planning policies, namely DC9 and DC11 of Powys UDP.

### Biodiversity

Given that the site is currently within agricultural use and that there are no known species or sites within the locality which would be affected by the development, it is not considered that the proposal would affect nature conservation interests. Additional landscaping is proposed by the application and as such this would provide biodiversity enhancements in accordance with UDP Policy ENV3.

### Loss of agricultural land

UDP Policy ENV1 provides safeguarding for the best and most versatile land. The land is not known to fall within grades 1, 2 and 3a and therefore is not considered to be of the best and most versatile agricultural land or of particular value to agriculture within the locality in accordance with the advice provided within UDP Policy ENV1 and Technical Advice Note 6.

### Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

With regards to the Development Management function, PPW states as follows:

*“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”*

Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Bwlch y Cibau which falls under Meifod Community has not been identified as one of the settlements under policy GP5.

## Community: Meifod

### *Able to speak Welsh*

	2011	2001	2011	2001
Age	%	%	Number	Number
3+:	24.4	25.3	314	323
3-15:	45.6	53	89	134
16-64:	21.3	18.4	174	147
65+:	18.5	18.4	51	42

### *Number of residents aged 3 and over:*

Census	Number
2011	1288
2001	1279

However the scheme proposes 2 affordable units and it is considered that the provision of affordable dwelling helps mitigate against the impact of a development on the Welsh language, the affordable dwelling provision and the contribution of four open market dwellings make to the lack of a five year housing supply are given considerable weight.

It is considered that the introduction of 6 dwellings will help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten local facilities or force sections of the population away from these facilities.

It is also considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence this aids in retaining those residents and helps mitigate against the impact of a development on the Welsh language, the applicant has highlighted that the provision of affordable housing will be approximately 20% with a number of other houses of a modest scale.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

Therefore, given that one of the dwellings will be limited by condition as an affordable unit, which is considered an appropriate level of affordable homes for the proposal, it is concluded that the development would assist in contributing to the well-being of the Welsh language in Powys.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would

have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

With regard to the developments impact on schools, given the scale of the proposed development, the impact on nearby schools is considered to be minimal. No adverse or positive impact can therefore be identified in relation to the balance between Welsh-speaking and non-welsh speaking students.

In relation to impact on health care provision, given the scale of the proposed development, the impact on health care provision is also considered to be minimal. No adverse or positive impact can therefore be identified in relation to Welsh medium services.

With regard to social tensions, conflict or divisions, given the scale of the proposed development, it is not considered that the proposal would have a significant uneven effect on different parts of the local community, which would potentially advantage some groups and disadvantage others. No evidence has been identified that the proposed development would violate traditional values of certain parts of the community.

### **Other Legislative Considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)



Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

#### **RECOMMENDATION**

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on xxxxx (drawing no's: 1, 2, 3, 4, 5, 7 and 8).
3. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% affordable dwellings;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
4. The affordable dwelling shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of

the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwellings shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

5. Prior to any works being commenced on site the applicant shall submit and have approved in writing by the Local Planning Authority full engineering details of the proposed new footway along the A490.

6. Prior to the occupation of any dwelling the footway, referred to above, shall be fully completed.

7. The geometry and dimensions of the new access shall be in accordance with the details on drawing number 7 dated September 2017.

8. Prior to the occupation of any dwelling any entrance gates shall be set back at least 10.0 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

9. No other development shall commence until the access has been constructed so that there is a clear visibility splay from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.26 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in an easterly direction and 90 metres in a westerly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

10. Before any other development is commenced the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

11. Prior to the occupation of any dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom excluding any garage space provided together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

12. Provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

13. Prior to the occupation of any dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

14. No storm water drainage from the site shall be allowed to discharge onto the county highway.

15. Prior to the construction of the dwellings hereby approved [details and/or samples] of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

16. The roofing material used in the development shall be blue/grey natural mineral slate of uniform colour, thickness, size and texture and remain as such in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
4. In order to ensure that the dwellings serve an affordable need in perpetuity in accordance with the Affordable Housing for Local Needs Supplementary Planning Guidance (SPG) (July 2011), Policies HP7 and HP10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
8. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
9. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
14. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.

15. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.

16. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the building in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.

**Informative Notes**

Signed:.....

Eddie Hrustanovic Swyddog Cynllunio / Planning Officer

Date:

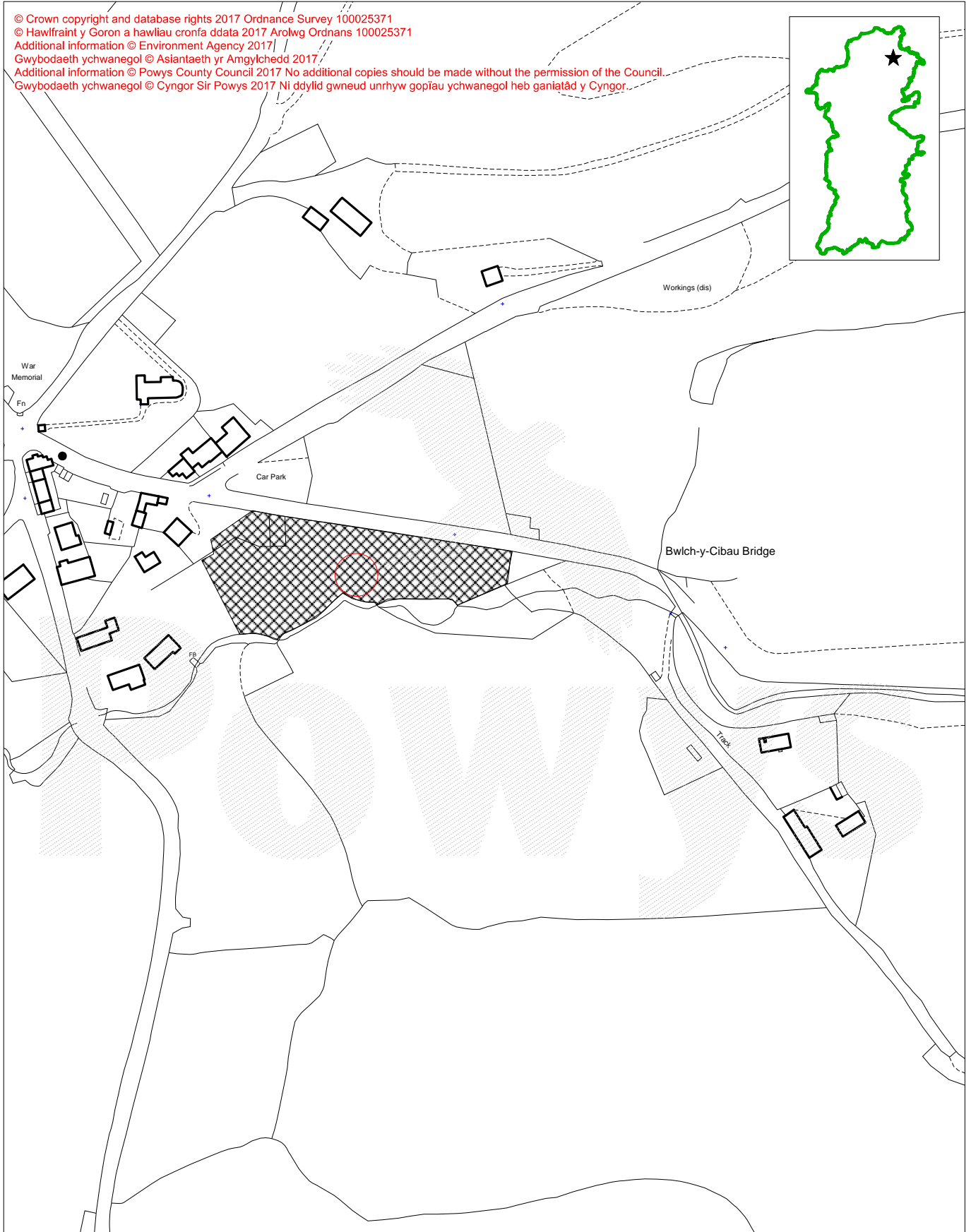
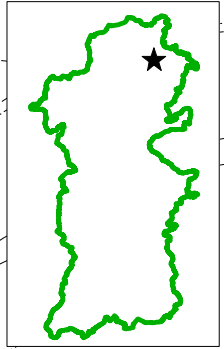
07/12/2017

Signed:.....

Principal Planning Officer/Interim Planning Solicitor

Date:

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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.8

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/0170	<b>Grid Ref:</b>	310927.08 306451.2
<b>Community Council:</b>	Llanfair Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 07/02/2017 Eddie Hrustanovic
<b>Applicant:</b>	Mr J Edwards, Welshpool, Powys, SY21 0BH		
<b>Location:</b>	Land adjacent to Peartree Lane, Llanfair Caereinion, Powys SY21 0BH		
<b>Proposal:</b>	Outline: Residential development of up to 5 dwellings, formation of vehicular access and associated works (some matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The proposed development is a departure from the development plan and is recommended for approval.

### Site Location and Description

The site subject to this application is located adjacent to the Llanfair Caereinion development boundary, therefore for the purposes of the Powys Unitary Development Plan (UDP) is defined as open countryside.

The site is located opposite the existing residential estate which leads into Heulfryn, and site being situated on eastern side of Llanfair Caereinion. The site is bounded to the north by existing residential properties with intervening Peartree Lane between, agricultural fields to the east, south and west. The site is loping steeply upwards in eastern direction and it is elevated over the adjacent lane and nearby properties. The access will be obtained via an existing agricultural gate linking to the estate road.

Consent is sought in outline for the construction of up to 5 dwellings, including a provision of one affordable dwelling (4 open market + 1 affordable units). The indicative block plan submitted with the application details a mix of dwelling types ranging from 3 to 4 bedroom semi-detached and detached dwellings with garages.

### Consultee Response

#### Llanfair Caereinion CC

At the meeting of Llanfair Town Council on Monday 27<sup>th</sup> February 2017 the members voted not to support this application. A number of concerns were raised which included the issues of sewage and surface water drainage and safety of pedestrians and vehicle users alike on a very narrow lane. The need for further building in town where numerous properties remain unsold was also questioned.

## PCC Highways

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to any other works commencing on the development site, detailed engineering drawings for the new footway and carriageway widening along the Unclassified U6026 shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning Authority.

HC1 Any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC3 The centre line of the first 6 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 6 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC9 Prior to the occupation of any of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

HC10 The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher



run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as per above conditions, shall be not less than 6 metres for a minimum distance of 6 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC14 Any internal side-road junctions shall have a corner radii of 6 metres.

HC15 The centre line radii of all curves on the proposed estate road shall be not less than 6 metres.

HC19 No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.

HC21 Prior to the occupation of any of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 6 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in above conditions the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC31 The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### PCC Building Control

Building regulations will be required

#### Severn Trent Water

As the site is for 5 dwellings and there are no sewers or clean pipes crossing the site I would advise: As the proposal has minimal impact on the public sewerage system I can advise we have **no objections** to the proposals and do not require a drainage condition to be applied.

#### PCC Environmental Health

Provided that the dwellings are connected to the mains I have no objection to the application.

#### PCC Ecologist

Ecological Topic		Observations
Additional Information		<p>We provided ecological observations on this application on 01/03/17. Additional information provided subsequent to these comments includes an Ecological Appraisal Report prepared by Turnstone Ecology.</p> <p>Comments made following receipt of this information are included in bold text below. Otherwise the previous observations remain valid.</p>
EIA Screening Requirement	No	<p>The site area is understood to be 0.60 hectares and includes 5 dwellings. Therefore, it is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.</p>
Ecological Information included with application	No	<p><b>An Ecological Appraisal Report (Turnstone Ecology, October 2017) has been submitted as additional information to the application. The report confirms that the proposed development consists of the construction of five detached dwellings at the western end of a large grazed field comprised of semi-improved grassland.</b></p> <p><b>A mature hedgerow and scattered trees form the north-western boundary of the site, which would be relocated to allow for the proposed access from the adjacent highway. Directly adjacent to the proposed development to the south west is a large woodland block which extends around the southern edge of the existing field, no land take is expected within the woodland area.</b></p> <p>These observations are also based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service, along with various documents presented with the application including the Planning Statement.</p>
Protected Species & Habitats <sup>1</sup>	European Species <input checked="" type="checkbox"/>	<p>There are historical records of otters and bat species within 2km of the development site, but not within its immediate vicinity.</p>

<sup>1</sup> Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

		<p>The Ecological Appraisal Report considers potential impacts upon bats, dormice and great crested newts (GCN).</p> <p>The report confirms that a mature Ash tree along the north-western boundary provides low potential opportunities for roosting bats, and there is also likely to be roosting opportunities within the adjacent woodland block. The semi-improved grassland is unlikely to be important for foraging bats however the hedgerow, boundary trees and woodland to the south-west are suitable for regular foraging and/or commuting. The proposed development allows for translocation of the north-western hedge along with additional planting along the site perimeter which should retain or enhance bat foraging habitat across the whole site.</p> <p>Recommendations are made for a pre-works check of the Ash tree to be removed by a licenced ecologist followed by appropriate felling methods under supervision. Recommendations are also made for the installation of bat boxes/tubes on the proposed buildings, along with a sensitive lighting design which does not illuminate valuable habitat surrounding the site.</p> <p>The report considers that even though the north-western hedgerow provides suitable habitat for dormice, connectivity to any further and more extensive suitable Dormouse habitat is poor and therefore the presence of dormice on site is very unlikely and there should be no negative impact on this species.</p> <p>There are no records of GCN within 2 km of the proposed development site and only a single pond within 500m of the site, which has been assessed as being of poor suitability. Even though the north-western boundary hedgerow and grassland are of some suitability for GCN, due to the lack of records in the vicinity of the site, extent of groundworks associated with the proposals and distance from a nearest suitable breeding pond, it is considered very unlikely that GCN will be present on site pre or during construction.</p> <p>There does not appear to be any habitat that would support otters within the development site.</p>
	UK Species <input checked="" type="checkbox"/>	There are historical records of badgers, reptiles and various nesting birds within 2km of the development site.

	<p>The Ecological Appraisal Report considers potential impacts upon badgers, reptiles and breeding birds.</p> <p>No evidence of badger was found within the proposed development site. The grassland and hedgerow bases do however provide suitable habitat for sett creation and foraging Badger and extensive suitable habitat is present within the woodland to the south-west of site.</p> <p>The loss of a small area of grassland and removal of a boundary hedgerow are unlikely to have a significant negative impact on foraging badgers and based on there being no evidence of Badger on or adjacent to site at the time of surveys it is unlikely that any holes will be dug prior to construction works. However, recommendations are made to ensure foraging Badgers do not become trapped within any excavations associated with construction works.</p> <p>The report concludes that the north-western boundary hedgerow that will be affected by the proposals is suitable habitat for hibernating, dispersing and/or foraging reptiles. The grassland is also of some suitability for foraging and dispersing reptiles. However, overall connectivity between suitable reptile habitat on site and more extensive optimal habitat in the vicinity of site is poor. However, precautionary safe working methods are recommended to discourage reptiles from occurring on site during construction.</p> <p>The hedgerow and boundary trees are suitable for nesting birds and these will be removed for access and visibility splay purposes. The presence of ground nesting birds in the areas of semi-improved grassland is however considered very unlikely. The report recommends that correct provisions are made to reduce the risk of harming breeding birds during vegetation clearance, including correct timing of works outside of the breeding season.</p> <p>Habitat creation, enhancement and management, including the proposed planting of hedgerows and trees, will offset any habitat loss as a result of the removal of the north-western boundary hedgerow. Recommendations for additional installation of a mix of open and hole fronted nest boxes on at least three of the proposed dwellings or trees would further enhance the site for nesting birds.</p>
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	<p>Section 7 Species &amp; Habitat</p>	<p>⊗</p> <p>The applicant should be mindful that, in accordance with Powys County Council’s duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Hedgerows are listed as priority habitats on Section 7 of the Act. <b>According to the Ecological Appraisal Report an approximate 138m of boundary hedgerow will need to be removed for access and visibility splay purposes and to allow for the widening of the adjacent highway. To compensate for these losses the north-western boundary hedgerow will be translocated and/or recreated as and where necessary along the north-western boundary of the site. Additional hedgerows will be created along the north-eastern and south-eastern boundaries of site, which will retain and improve north/south connectivity. Recommendations are provided that hedgerows should be planted using a mix of native broadleaved species and be of a similar diversity to that present within existing north-western boundary hedgerow; and that tree planting around the north-eastern, north-western and south-eastern edges of site and within the proposed gardens should also be a mix of native species similar to those currently found on and adjacent to site.</b></p> <p><b>There are historical records of hedgehog, hare and polecat within 2km of the development site, all of which are Section 7 priority species which could use the existing hedgerows for foraging and shelter.</b></p> <p><b>According to the Ecological Appraisal Report the overall habitat loss is unlikely to have a significant impact on any hedgehog population on and in the vicinity of site. However, there is the potential for hedgehog to be present along the hedgerow at the time of clearance and therefore safe working measures in line with those for reptiles are recommended to protect hedgehogs. Also recommendations are made to allow hedgehogs to move freely across site post-construction and for the installation of two hedgehog boxes included around the boundaries of site.</b></p> <p><b>The report also confirms that the loss of a small area of grassland and removal of the north-western boundary hedgerow on the edge of a residential area is unlikely to</b></p>
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		have any significant impacts on brown hare or polecat and as such no additional mitigation measures are required for this species.
	LBAP Species & Habitat <input checked="" type="checkbox"/>	See observations above.
Protected Sites	International Sites <sup>2</sup> <input type="checkbox"/>	None within the search area
	National Sites <sup>3</sup> <input type="checkbox"/>	None within the search area
	Local Sites (within 500m) <input type="checkbox"/>	None within the search area
Invasive Non-Native Species	Unknown	No ecological information submitted with the proposal.
Cumulative Effect	Unknown / Unconfirmed	
Summary of recommendations / further assessment or work		
Recommended Conditions		<p>Should you be minded to approve this application I recommend the inclusion of the following conditions:</p> <p><b>1) The recommendations regarding habitats, bats, nesting birds, reptiles and hedgehogs identified in Section 4 of the Ecological Appraisal Report by Turnstone Ecology (October 2017) shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.</b></p> <p><b>Reason:</b> To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><b>2) Prior to commencement of development, a Biodiversity</b></p>

<sup>2</sup> Identify International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

<sup>3</sup> Any designated sites within 500m of the proposal, extending to 2km dependant on features of interest i.e. wetlands (Powys LDP)

***Enhancement Plan showing location of enhancement measures for bats, breeding birds and hedgehogs shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.***

**Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the Environment (Wales) Act 2016.**

*3) Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

*4) Prior to commencement of development a Hedgerow Translocation Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

*5) Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

6) A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.

**Reason:** To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

### **Informative**

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

#### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter



	<p>or protection. This is taken to mean all bat roosts whether bats are present or not.</p> <p>Under the Habitats Regulations it is an offence to:</p> <ul style="list-style-type: none"> <li>• Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.</li> </ul> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email <a href="mailto:enquiries@bats.org.uk">enquiries@bats.org.uk</a></p>
<b>Relevant UDP Policies</b>	<p>SP3 Natural, Historic and Built Heritage  ENV 2: Safeguard the Landscape  ENV 3: Safeguard Biodiversity and Natural Habitats  ENV 6: Sites of Regional and Local Importance  ENV 7: Protected Species</p>
<b>Comments on Additional Information</b>	N/A

### PCC Land Drainage

I refer to the above mentioned planning application. Having now reviewed the submitted Drainage Strategy prepared by Waterco Consultants dated September 2017, the LLFA find the conclusions of the report acceptable.

The LLFA would recommend that the surface water drainage for this site shall be designed in accordance with the Drainage Strategy report findings and that full engineering details/drawings for the surface water drainage be submitted and approved in writing by the LPA at reserved matters stage.

### **Representations**

The application was advertised through the erection of a site notice and press advertisement. Five public representations (objections) have been received in respect of the proposed development.

The objections received are summarised below;

- Detrimental impact on the visual amenity of the area,
- The development will change the character of the area,

- The site is outside designated settlement boundary,
- Local services are at capacity,
- Sewage system is at capacity,
- Mains water supply is issue in the area,
- Site not suitable for development,
- Surface water drainage,
- Additional traffic along the lane,
- No demand for additional properties within Llanfair Caerenion,
- Residential amenity impact.

## **Planning History**

No relevant planning history

## **Principal Planning Constraints**

Outside settlement boundary

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (Edition 9, 2016)  
 TAN 1 - Joint Housing Land Availability Studies (2015)  
 TAN 2 - Planning and Affordable Housing (2006)  
 TAN 5 - Nature Conservation and Planning (2009)  
 TAN 6 - Planning for Sustainable Rural Communities (2010)  
 TAN 12 - Design (2016)  
 TAN 18 - Transport (2007)  
 TAN 20 - Planning and the Welsh Language (2017)  
 TAN 23 – Economic Development (2014)  
 TAN 24 – The Historic Environment (2017)

### Local Planning Policies

Powys Unitary Development Plan (2010)

UDP SP2 – Strategic Settlement Hierarchy  
 UDP SP5 - Housing Developments  
 UDP GP1 - Development Control  
 UDP GP3 - Design and Energy Conservation  
 UDP GP4 - Highway and Parking Requirements  
 UDP GP5 – Welsh Language and Culture  
 UDP HP3 - Housing Land Availability  
 UDP HP4 - Settlement Development Boundaries and Capacities  
 UDP HP6 - Dwellings in the Open Countryside  
 UDP DC10 - Mains Sewage Treatment  
 UDP DC11 - Non-mains Sewage Treatment  
 UDP DC13 - Surface Water Drainage  
 UDP DC8 - Public Water Supply

UDP DC9 - Protection of Water Resources  
UDP ENV1 - Agricultural Land  
UDP ENV2 - Safeguarding the Landscape  
UDP ENV3 - Safeguarding Biodiversity & Natural Habitats  
UDP ENV7 - Protected Species  
UDP ENV17 – Ancient Monuments and Archaeological Sites  
UDP TR2 – Tourist Attractions

## Powys Residential Design Guide

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## Officer Appraisal

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise

### Principle of Development

For the purposes of the Powys Unitary Development Plan, the site subject to this application lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainability:

In considering the proposed development, Members are asked to consider whether this location is regarded as a sustainable location for new residential development. Although located in the open countryside, the site adjoins the settlement development boundary of Llanfair Caereinion (defined as an Area Centre within the UDP). Llanfair Caereinion benefits from a number of services such as convenience stores, Doctor's surgery, butchers, public

houses, leisure centre and primary and secondary school. Llanfair Caereinion also benefits from public transport which provides access to other larger settlements such as Welshpool which is located approximately 8.5 miles to the east.

Given the noted proximity, future occupiers would have good access to existing facilities and amenities and also connections to further services and the wider area through public transport services.

### Affordable Housing

Whilst UDP policy states that affordable housing provision should be 30-35%, latest evidence produced to support the Local Development Plan indicated that a 10% affordable housing in this area would be viable. In support of the application the developer has proposed (1 unit) 20% affordable housing which would be conditioned as part of any consent.

### Appearance, Layout and Style

UDP policy HP5 (Residential Development) indicates that development proposals will only be permitted where the scale, form and appearance of the development generally reflects the character and appearance of the existing settlement.

The site slopes upwards in the south easterly direction. The block plan demonstrates that the proposed plots will be in linear form along the Peartree Lane. As the development would be on a slope, Officers consider that through sensitive design and landscaping that the development would not have a detrimental impact on the surrounding landscape.

The indicative site layout details a private turning head within the site and that the proposed dwellings will be of a split-level design (dormer bungalow style).

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, detailing a mix of dwelling types and sizes, it is considered that the application site is capable of accommodating 9 dwellings without unacceptably adversely affecting the character and appearance of the area compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Highway Safety and Movement

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The site will be accessed via the proposed access into the site off Peartree Lane. Powys Highway Authority have confirmed that there are no objections to the scheme and have not raised any highway safety issues in this respect. Public representations are acknowledged in respect of the anticipate increase in vehicular movements to/from the proposed development and possible detriment to free flow of traffic/pedestrians along the lane, however it is important to note that Powys Highway Department have not raised any concerns in this respect. It is also important to note that the indicative plans show that the lane will be widened along the frontage of the site and 2 metres wide walkway will be also created.

Highway Authority has requested inclusion of number of highway safeguarding conditions in that respect.

In light of the comments received and given the scale of the proposed development, Officers are satisfied that the proposed development will not have an unacceptable adverse impact on highway safety and movements. The proposed development is therefore considered to be in accordance with planning policy, particularly UDP policy GP4 and TAN 18: Transport.

### Residential Amenity

UDP Policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected. The Powys Residential Design Guide provides guidance on overshadowing and privacy.

The site opposite the existing properties located on Heulfryn residential estate. Concerns have been expressed by the occupiers of neighbouring dwellings that the proposal would negatively impact on their properties, however it is important to note that indicative plans show that there is sufficient distance with intervening lane between (ranging from 35 meters to 45 metres from the wall-to-wall between the existing and proposed units, with intervening rear gardens of the existing properties at Heulfryn between). It is acknowledged that this is elevated site however given the distances between the properties and intervening road between the officers consider that there would be sufficient separation between the properties not to cause amenity issues between the residents of both sites.

Whilst details relating to design and appearance are reserved for future consideration, Officers consider that the amenities of neighbouring properties can be safeguarded through sensitive design and siting at reserved matters.

Following consultation with Environmental Health no objection has been received in relation to its impact on neighbour amenity.

In terms of overshadowing, the Residential Design Guide advises that where new development is less than 40 metres from the nearest habitable room and where the main front or rear (not flank) elevations of existing development is affected, the height of new development should generally be set below a line of 25 degrees taken from the nearest habitable room of adjoining existing property at a height of 2 metres. Whilst this distance is less than 40 metres in relation to the proposed site, the detailed design could take account of the overshadowing guidelines and as such would be considered at reserved matters stage.

Taking into account the character of existing development in the locality and the highway, it is considered that the indicative layout demonstrates that residential development can be provided at this location without unacceptably adversely affecting the amenities enjoyed by occupants of existing residential properties and that of the proposed dwellings in accordance with UDP Policy GP1 and the Council's Residential Design Guide.

### Impact on biodiversity and suitability of landscaping

The proposed development would result in the loss of an area of approximately 0.6ha of agricultural land. The land is grazed and considered of low ecological value. No negative comments were made by County Ecologist with respect to the ecology of the site.

The County Ecologist notes that an Ecological Appraisal Report (Turnstone Ecology, October 2017) has been submitted as additional information to the application. The report confirms that the proposed development consists of the construction of five detached dwellings at the western end of a large grazed field comprised of semi-improved grassland.

A mature hedgerow and scattered trees form the north-western boundary of the site, which would be relocated to allow for the proposed access from the adjacent highway. Directly adjacent to the proposed development to the south west is a large woodland block which extends around the southern edge of the existing field, no land take is expected within the woodland area.

The Ecological Appraisal Report considers potential impacts upon bats, dormice and great crested newts (GCN). The report confirms that a mature Ash tree along the north-western boundary provides low potential opportunities for roosting bats, and there is also likely to be roosting opportunities within the adjacent woodland block. The semi-improved grassland is unlikely to be important for foraging bats however the hedgerow, boundary trees and woodland to the south-west are suitable for regular foraging and/or commuting. The proposed development allows for translocation of the north-western hedge along with additional planting along the site perimeter which should retain or enhance bat foraging habitat across the whole site.

Recommendations are made for a pre-works check of the Ash tree to be removed by a licenced ecologist followed by appropriate felling methods under supervision. Recommendations are also made for the installation of bat boxes/tubes on the proposed buildings, along with a sensitive lighting design which does not illuminate valuable habitat surrounding the site.

The report considers that even though the north-western hedgerow provides suitable habitat for dormice, connectivity to any further and more extensive suitable Dormouse habitat is poor and therefore the presence of dormice on site is very unlikely and there should be no negative impact on this species.

There are no records of GCN within 2 km of the proposed development site and only a single pond within 500m of the site, which has been assessed as being of poor suitability. Even though the north-western boundary hedgerow and grassland are of some suitability for GCN, due to the lack of records in the vicinity of the site, extent of groundworks associated with the proposals and distance from a nearest suitable breeding pond, it is considered very unlikely that GCN will be present on site pre or during construction.

The Ecological Appraisal Report considers potential impacts upon badgers, reptiles and breeding birds. No evidence of badger was found within the proposed development site. The grassland and hedgerow bases do however provide suitable habitat for sett creation and foraging Badger and extensive suitable habitat is present within the woodland to the south-west of site. The loss of a small area of grassland and removal of a boundary hedgerow are unlikely to have a significant negative impact on foraging badgers and based on there being no evidence of Badger on or adjacent to site at the time of surveys it is unlikely that any holes

will be dug prior to construction works. However, recommendations are made to ensure foraging Badgers do not become trapped within any excavations associated with construction works.

The report concludes that the north-western boundary hedgerow that will be affected by the proposals is suitable habitat for hibernating, dispersing and/or foraging reptiles. The grassland is also of some suitability for foraging and dispersing reptiles. However, overall connectivity between suitable reptile habitat on site and more extensive optimal habitat in the vicinity of site is poor. However, precautionary safe working methods are recommended to discourage reptiles from occurring on site during construction.

The hedgerow and boundary trees are suitable for nesting birds and these will be removed for access and visibility splay purposes. The presence of ground nesting birds in the areas of semi-improved grassland is however considered very unlikely. The report recommends that correct provisions are made to reduce the risk of harming breeding birds during vegetation clearance, including correct timing of works outside of the breeding season.

Habitat creation, enhancement and management, including the proposed planting of hedgerows and trees, will offset any habitat loss as a result of the removal of the north-western boundary hedgerow. Recommendations for additional installation of a mix of open and hole fronted nest boxes on at least three of the proposed dwellings or trees would further enhance the site for nesting birds. According to the Ecological Appraisal Report an approximate 138m of boundary hedgerow will need to be removed for access and visibility splay purposes and to allow for the widening of the adjacent highway. To compensate for these losses the north-western boundary hedgerow will be translocated and/or recreated as and where necessary along the north-western boundary of the site. Additional hedgerows will be created along the north-eastern and south-eastern boundaries of site, which will retain and improve north/south connectivity. Recommendations are provided that hedgerows should be planted using a mix of native broadleaved species and be of a similar diversity to that present within existing north-western boundary hedgerow; and that tree planting around the north-eastern, north-western and south-eastern edges of site and within the proposed gardens should also be a mix of native species similar to those currently found on and adjacent to site.

There are historical records of hedgehog, hare and polecat within 2km of the development site, all of which are Section 7 priority species which could use the existing hedgerows for foraging and shelter. According to the Ecological Appraisal Report the overall habitat loss is unlikely to have a significant impact on any hedgehog population on and in the vicinity of site. However, there is the potential for hedgehog to be present along the hedgerow at the time of clearance and therefore safe working measures in line with those for reptiles are recommended to protect hedgehogs. Also recommendations are made to allow hedgehogs to move freely across site post-construction and for the installation of two hedgehog boxes included around the boundaries of site. The report also confirms that the loss of a small area of grassland and removal of the north-western boundary hedgerow on the edge of a residential area is unlikely to have any significant impacts on brown hare or polecat and as such no additional mitigation measures are required for this species.

There does not appear to be any habitat that would support otters within the development site.

The County Ecologist has recommended a number of safeguarding conditions to be attached if the application is approved. Therefore, on the basis of this advice, it is recommended that any consent should include conditions requiring the submission of details with the reserved matters application which will increase site biodiversity in accordance with UDP Policy ENV3.

Having taken the above into account it considered that, subject to conditions, the ecological impacts of the proposed development are considered acceptable and are therefore in accordance with relevant planning policy.

#### Foul water disposal

Policy DC10 (Mains Sewerage Treatment) requires that developments are adequately served by the public foul sewerage system.

The application states that the proposed development would utilise the existing mains sewerage system which is approximately 120 metres north west of the site within Mount Road. Correspondence with STW submitted as an Appendix C to Drainage Strategy Report (September 2017) states that *“the proposed 5 dwellings should not have an adverse hydraulic impact on the existing network”*. Concerns have been raised from a third party over the capacity of the sewerage system, however following consultation with Severn Trent no objections have been raised to the proposed development. Consultation was also undertaken with Environmental Health who offered no objection to the use of mains sewerage.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy DC10 of the Powys UDP.

#### Surface water drainage

UDP Policy DC13 (Surface Water Drainage) requires that developments make adequate provisions for land drainage and surface water disposals.

Public representations are acknowledged in this respect; however it is important to note that the application is accompanied by Drainage Strategy prepared by Waterco Consultants dated September 2017. The report states that the development will result in an increased surface water runoff and in order to ensure the increase in surface water runoff will not increase flood risk elsewhere, flow control will be used and attenuation provided on site to accommodate storm events.

The Councils Land Drainage Engineer finds the conclusions of the report acceptable and recommend that the surface water drainage for this site shall be designed in accordance with the Drainage Strategy report findings and that full engineering details/drawings for the surface water drainage be submitted and approved in writing by the LPA at reserved matters stage.

In light of the above observations, Development Management considers the proposed development to be in accordance with policy DC13 of the Powys UDP.

#### Welsh Language and Culture



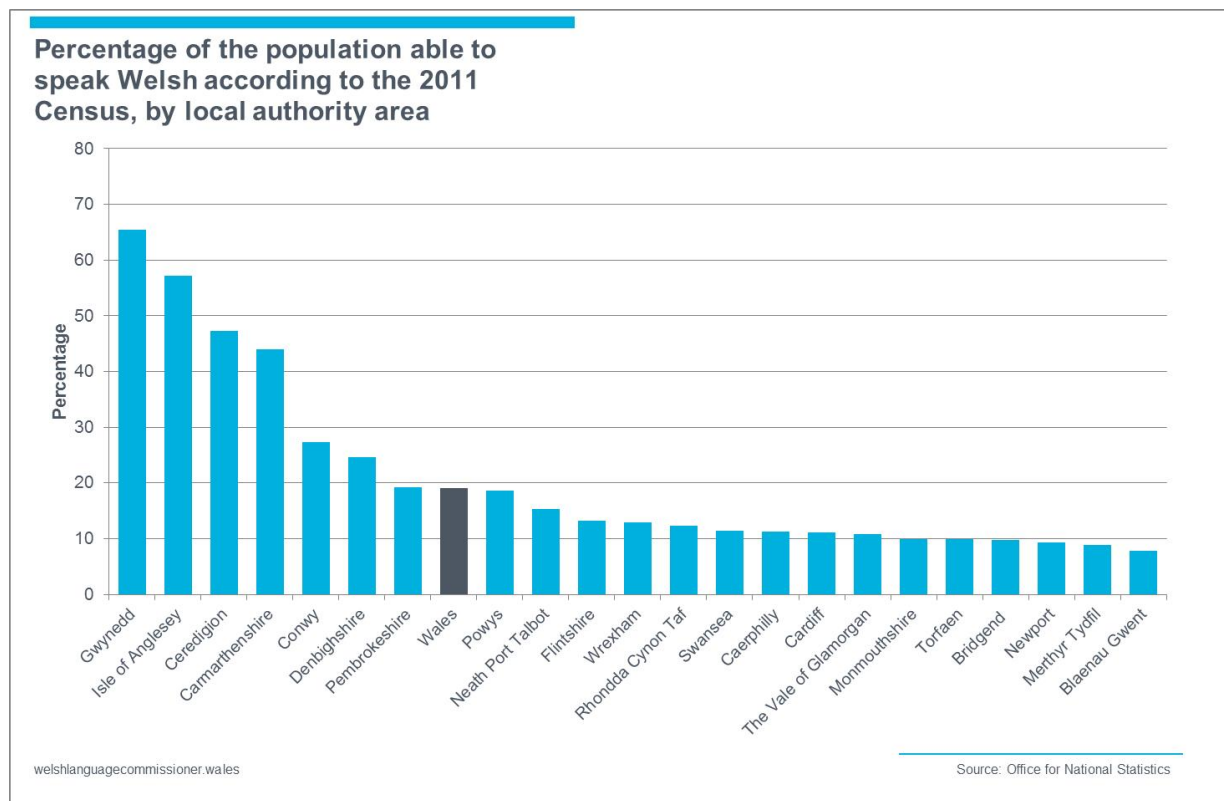
Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

With regards to the Development Management function, PPW states as follows:

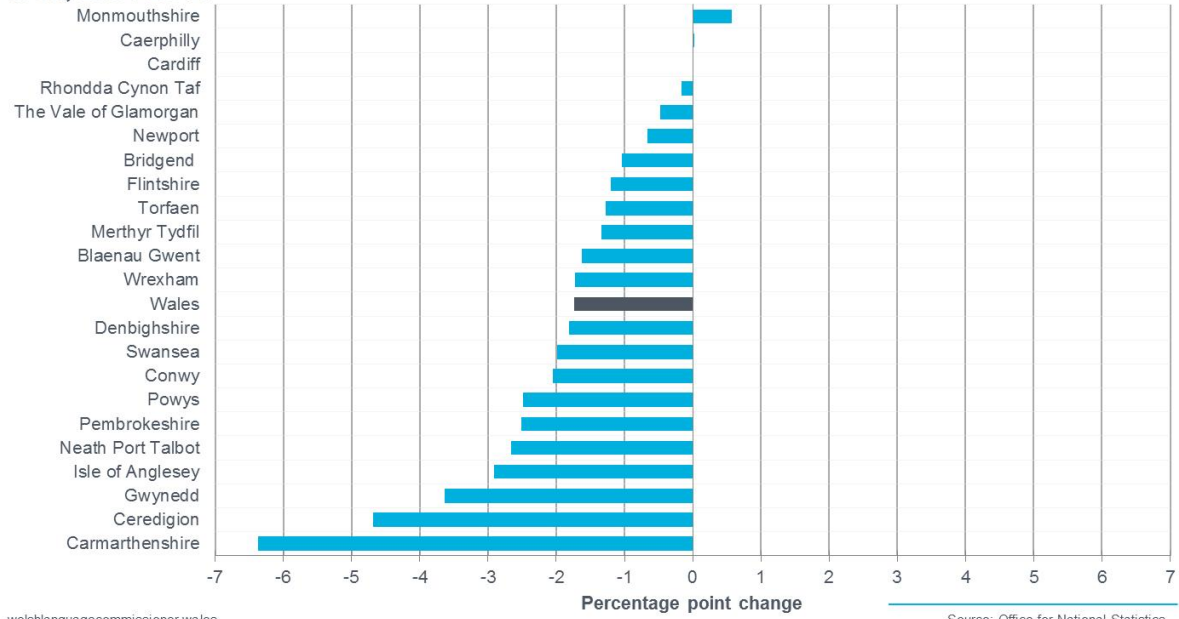
“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

### Census Information

Looking at a Local Authority level the graph below provides a picture of the Welsh Language in Powys compared to that in the rest of Wales;



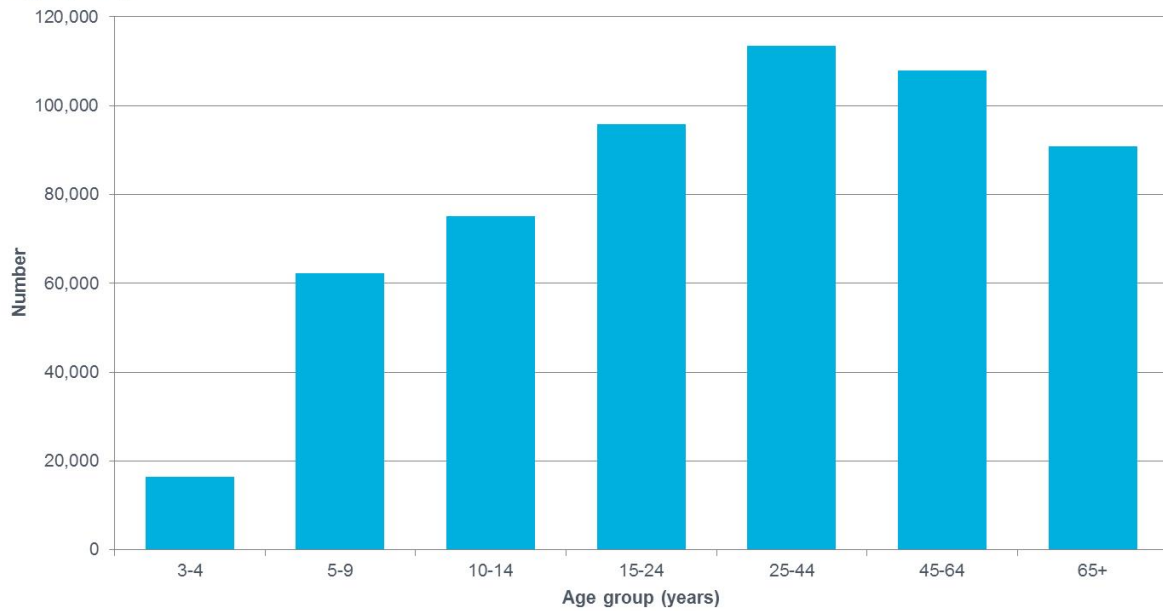
**Change in the percentage of the population able to speak Welsh (percentage point), by local authority area, 2001-2011**



welshlanguagecommissioner.wales

Source: Office for National Statistics

**Number of people able to speak Welsh in Wales according to the 2011 Census, by age group**



welshlanguagecommissioner.wales

Source: Office for National Statistics

### 2001 Census

All people aged 3 and over	Understands spoken Welsh only	Speaks but does not read or write Welsh	Speaks and reads but does not write Welsh	Speaks, reads and writes Welsh	Other combination of skills	No knowledge of Welsh
1,563	122	79	24	499	55	784

### 2011 Census

All usual residents aged 3 and over	No skills in Welsh	Can understand spoken Welsh only	Can speak Welsh	Can speak but cannot read or write Welsh	Can speak and read but cannot write Welsh	Can speak, read and write Welsh	Other combination of skills in Welsh
1,757	910	148	632	74	40	512	73

The census information has been looked at by the Welsh Language Commissioner who has provided the following breakdown regarding the ability to speak Welsh in the area.

	2011	2001	2011	2001
Age	%	%	Number	Number
3+	36	39	632	613
3-15	62.3	56.5	198	183
16-64	29.5	31.9	326	313
65+	32.2	43.8	108	117

It is apparent from the figures above that the numbers of people speaking Welsh in the Llanfair Caereinion ward has decreased by 3% overall with 2.4% being dropped in the 16-64 age category. However consideration should be given to the positive fact that the percentage of Welsh speakers in the 3 – 15 age group has increased by 5.8%.

In assessing the impact of the proposed development on the Welsh Language and culture of the area the following statement has been submitted;

*“We accept that Llanfair is an identified settlement under Policy GP 5 and as such we have taken the importance of the Welsh Language and Culture into account through the provision of a housing mix, through the sustainable location and obviously through the provision of affordable homes”.*

The scheme brings forward an appropriate number of affordable units as suggested under Policy GP 5. The proposed scheme will provide a proportion of affordable housing.

It is considered that the introduction of 5 dwellings will help sustain the viability of the facilities that are vital in supporting Welsh language and culture. It is not considered that a development of the scale proposed would threaten these facilities or force sections of the population away from these facilities. It is considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence, this aids in retaining those residents and helps to mitigate against the impact of a development on the Welsh language.

In relation to economic development, it is considered that the potential construction of the dwellings would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade's people. It is therefore considered that the construction of this development would have a neutral or positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

In light of the above it is considered that the proposed development could sustain and enhance the services currently within Llanfair Caereinion and the provision of housing and affordable dwellings will help sustain and enhance the cultural and linguistic vitality of the area.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

## Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions as specified below.

## **RECOMMENDATION**

### **Conditions**

1. Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out in accordance with the plans stamped as approved on xxxx in so far as the extent of the application site is drawn and the access point onto the unclassified highway (drawing no: RPP/TW-JOB03-03).
5. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 20% affordable dwellings;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

6. The affordable dwellings shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 1995 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.

7. The development hereby permitted shall not commence until full engineering details/drawings for the surface water drainage have been submitted to and approved by the Local Planning Authority. The surface water drainage for this site shall be designed in accordance with the Drainage Strategy report (dated September 2017) and shall be implemented in accordance with the approved details before the first occupation of any of the dwellings hereby approved.

8. Upon the submission of the reserved matters referred to within Conditions 1 and 2, the landscaping details shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. If any plants fail more than once they shall continue to be replaced on an annual basis until the end of the 5 year defects period.

10. Prior to the construction of the dwellings hereby approved details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

11. Prior to any other works commencing on the development site, detailed engineering drawings for the new footway and carriageway widening along the Unclassified U6026 shall be submitted to and approved in writing by the Local Planning Authority. Development thereafter shall be completed in full accordance with the details as approved and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

12. Any entrance gates shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

13. The centre line of the first 6 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

14. The access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

15. Before any other development commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 6 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

16. Prior to the occupation of any of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

17. The gradient from the back of the footway/verge to the vehicle parking areas shall be constructed so as not to exceed 1 in 15 and shall be retained at this gradient for as long as the dwellings remain in existence.

18. Before any other development commences provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

19. The width of the access carriageway, constructed as per above conditions, shall be not less than 6 metres for a minimum distance of 6 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

20. Any internal side-road junctions shall have a corner radii of 6 metres.

21. The centre line radii of all curves on the proposed estate road shall be not less than 6 metres.

22. No building shall be occupied before the estate road carriageway and one footway shall be constructed to and including binder course level to an adoptable standard including the provision of any salt bins, surface water drainage and street lighting in front of that building and to the junction with the county highway.
23. Prior to the occupation of any of the dwellings the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 6 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
24. Upon formation of the visibility splays as detailed in above conditions the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
25. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
26. No storm water drainage from the site shall be allowed to discharge onto the county highway.
27. The recommendations regarding habitats, bats, nesting birds, reptiles and hedgehogs identified in Section 4 of the Ecological Appraisal Report by Turnstone Ecology (October 2017) shall be adhered to and implemented in full unless otherwise agreed in writing by the Local Planning Authority.
28. Prior to commencement of development, a Biodiversity Enhancement Plan showing location of enhancement measures for bats, breeding birds and hedgehogs shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.
29. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
30. Prior to commencement of development a Hedgerow Translocation Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
31. Prior to commencement of development, a Species List for the Landscape Planting shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.
32. A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted and implemented as approved and maintained thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reasons



1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In order to ensure the provision of affordable housing in accordance with Policy HP7 of the Powys Unitary Development Plan (2010) and the Affordable Housing for Local Needs Supplementary Planning Guidance (2011).
6. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
7. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce or exacerbate a flooding problem and to minimise the risk of pollution in accordance with Policies GP1, DC10 and DC13 of the Powys Unitary Development Plan (2010).
8. To ensure a satisfactory and well planned development, to ensure protection is afforded to mature trees on the southern boundary of the site and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
9. To ensure a satisfactory and well planned development and to preserve and enhance the quality of the environment, visual amenity and privacy in accordance with Policies GP1 and ENV2 of the Powys Unitary Development Plan (2010).
10. In the interests of the visual amenity of the area and to ensure the satisfactory appearance of the buildings in accordance with policies GP1 and GP3 of the Powys Unitary Development Plan and the Councils Residential Design Guide.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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25. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
26. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
27. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
28. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
29. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
30. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
31. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
32. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

## **Informative Notes**

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built

- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

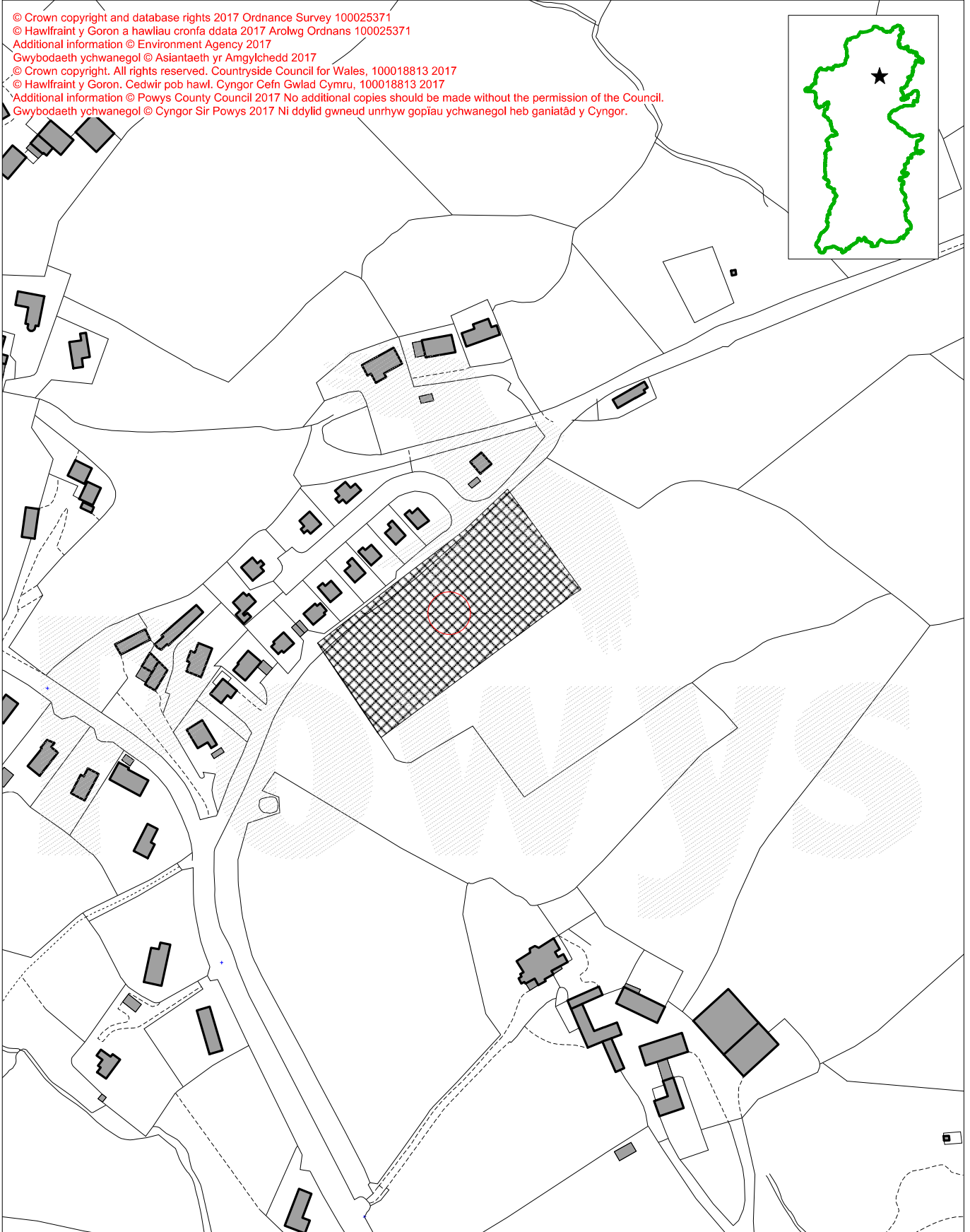
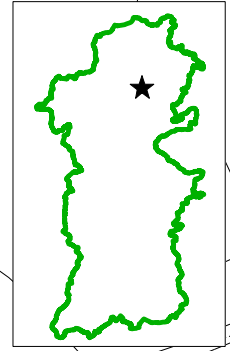
- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.
- The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)



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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.9

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1217	<b>Grid Ref:</b>	309511.65 305977.04
<b>Community Council:</b>	Llanfair Caereinion	<b>Valid Date:</b>	<b>Officer:</b> 18/10/2017 Sara Robinson
<b>Applicant:</b>	Mr Steve Andrew, Pear Tree Lane, Highbury, Llanfair Caereinion, Powys, SY21 0BH		
<b>Location:</b>	Land adjoining Maes Hyfryd, Llanfair Caereinion, Welshpool, Powys, SY21 0RY		
<b>Proposal:</b>	Outline application (with some matters reserved) for erection of an affordable dwelling, installation of sewage treatment plant and improvements to vehicular access (resubmission)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application site is located outside of the development boundary and in the open countryside as defined by the Powys Unitary Development Plan (2010).

### Site Location and Description

The site extends to approximately 0.06 hectare and is located to the south west of Llanfair Caereinion, the site adjoins County Class III Highway, C2013 to the south and abuts the curtilage area of Maes Hyfryd. There is further residential development at Whiteoaks to the west and the farm holding; Cae Garreg and its associated dwellings are located to the north of the site.

The application has been submitted in outline with access to be considered at this stage. It is proposed to construct a single affordable dwelling together with a new vehicular access off New Road.

### Consultee Response

#### Llanfair Caereinion Town Council

The members of Llanfair Town Council have voted to support planning application P/2017/1217. They wish to support, in full, young people and local families in their business enterprises in the area and encourage them to remain in their community.

#### Highways Department

The County Council as Highway Authority for the County Class III Highway, C2013

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to the occupation of the dwellings any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

The gradient of each access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of that access and shall be retained at this gradient for as long as the development remains in existence.

The centre line of the first 10 metres of each access measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

Prior to the commencement of the development the area of each access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

Prior to the occupation of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom in accordance with CSS Wales Parking Standards excluding any garage space provided together with a turning space such that all vehicles serving each plot may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5 metres for a minimum distance of 10 metres along the access measured from the



adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

Prior to the occupation of the dwelling the area of each access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.

Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### Reasons

To ensure the safety and free flow of traffic using the adjoining class III road.

#### Building Control

Building Regulations application required.

#### Wales & West Utilities

Wales & West Utilities acknowledge receipt of your notice received on 25.10.2017, advising us of the proposals for:

Maes Hyfryd, Llanfair Caereinion, Welshpool, Powys, SY21 0BX

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

I note that the intention is to allow the foul drainage to discharge to a watercourse. Provided that the NRW allow the exemption to discharge I have no objection to the application.

### PCC Ecologist

Ecological Topic		Observations
EIA Screening Opinion needed?	No	The site area is understood to be 0.10 hectares and includes up to 1 dwelling. Therefore, the development is not considered to meet or exceed the thresholds of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 for the screening of dwelling house developments for EIA since it does not exceed five hectares; include more than 150 dwellings; or include more than one hectare of urban development that is not a dwelling house development.
Ecological Information included with application?		<p>A Preliminary Ecological Appraisal was requested for the same project under a previous planning application P/2017/0320.</p> <p>The submitted Ecological Constraints Assessment prepared by Star Ecology (August 2017) considers the proposed course of the outfall pipe from the sewage treatment works.</p> <p>These observations are based on an interpretation of available aerial and street imagery and historical biodiversity records provided by the Powys Biodiversity Information Service.</p> <p>The application site appears to be located within an agricultural field grazed by sheep and is bounded by a hedgerow to the north and west. The majority of the northern hedgerow would appear to be removed and replaced to facilitate a visibility splay. The western hedgerow, bordering a residential garden, would appear to be retained.</p>
Protected Species & Habitats <sup>1</sup>	European Species	Historic records of European protected species from the vicinity of the site are sparse, but there are records of at least 3 bat species and otter from within 2km. No bat roosts or potential bat roosts

<sup>1</sup> Species records within 1km (minimum).

		<p>would appear to be lost as a result of the proposals. However, the northern hedgerow is likely to provide linear commuting and foraging habitat for a range of bat species.</p> <p>It would seem likely that the creation of the new visibility splay would require the removal of a large section of hedgerow. I suggest that any removed hedgerow is translocated behind the new visibility splay instead of buying and planting new stock.</p> <p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>The foul water discharge from the development would be via an outfall to an existing watercourse. The Ecological Constraints Assessment prepared by Star Ecology (August 2017) has considered the potential ecological impact of this proposal on otters and other species using the watercourse and riparian habitats, and concludes that the proposed discharge location is of low/negligible ecological value and no further ecology/protected species survey work is recommended.</p>
	UK Species	<p>There are historic records of badger and nesting bird species from the vicinity of the site; the boundary hedgerow to the north offers suitable habitat for a range of nesting bird species.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>The Ecological Constraints Assessment (Star Ecology August 2017) found no physical evidence of badger within 50m of the proposed outfall pipe.</p> <p>The hedgerow to be removed could also provide suitable shelter for common reptile species. It is recommended that a reptile and small animal Reasonable Avoidance Method Statement is agreed with the LPA prior to commencement of works to prevent potential harm during any vegetation clearance required to facilitate the proposed access and associated sightlines.</p>
	Section 7 Species & Habitats	<p>The applicant should be mindful that, in accordance with Powys County Council's duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p>

		<p>Hedgerows and rivers are Section 7 Priority Habitats that are present within the site. There are historic records of the Section 7 Priority Species Hedgehog and Hare from within 2km of the site, and suitable habitat for hedgehog at the site. I have therefore recommended that the section of northern hedgerow that would be removed for the visibility splay is translocated along the new visibility splay instead.</p> <p>The proposed new hedgerow planting around the site boundary is welcomed and should consist of native, locally-occurring species.</p> <p>Rivers are a Section 7 priority habitat. As the proposed development will connect to a sewage treatment plant, which will discharge to a watercourse, I recommend that NRW are consulted regarding consents for the discharge.</p>
	LBAP Species & Habitats	See previous observations.
<b>Protected Sites</b>	International Sites (within 1km)	None within the search area.
	National Sites (within 1km)	None within the search area.
	Local Sites (within 500m)	None within the search area.
<b>Invasive Non-Native Species</b>	<b>No</b>	None were identified in the Ecological Constraints Assessment, Star Ecology (August 2017).
<b>Recommendations</b>		<p>If additional lighting is required I recommend that a sensitive lighting scheme is implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>The proposed new hedgerow planting around the site boundary is welcomed and should consist of native, locally-occurring species.</p> <p>As the proposed development will connect to a sewage treatment plant, which will discharge to a watercourse, I recommend that NRW are consulted regarding consents for the discharge.</p>

<p><b>Further information required prior to determination of application</b></p>	<p>N/A</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, and subject to receipt of the additional information requested above, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Landscape Planting plan including a Species List and details of any translocated hedgerows shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><i>Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.</p> <p><i>A lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p> <p><b>Informatives</b></p> <p><b>Birds - Wildlife and Countryside Act 1981 (as amended)</b></p> <p>All nesting birds, their nests, eggs and young are protected by law and it is an offence to:</p> <ul style="list-style-type: none"> <li>• intentionally kill, injure or take any wild bird</li> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> <li>• intentionally take or destroy the egg of any wild bird</li> <li>• intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.</li> </ul> <p>The maximum penalty that can be imposed - in respect of a single</p>

	<p>bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.</p> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b> All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 7: Protected Species</p>

Natural Resources Wales

*Consultation Received 13/11/2017*

Thank you for consulting Natural Resources Wales on the above application.

We have reviewed the planning application submitted to us, and from the information provided we do not consider that the proposed development affects a matter listed on our Checklist, Natural Resources Wales and Planning Consultations (March 2015): <https://naturalresources.wales/guidance-and-advice/business-sectors/planning-and-development/our-role-in-planning-and-development/our-role-in-planning-and-development/?lang=en>. We therefore do not have any comment to make on the proposed development.

Please note that our decision not to comment does not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

We trust that the above comments are of assistance however, should you have any queries, please do not hesitate to contact me.

*Consultation received 24/11/2017 09:51*

Thanks for bringing this to my attention.

I responded to P/2017/1217 in accordance with item 20 on our checklist “Natural Resources Wales and Planning Consultations” (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>).

I did not realise at the time that Claire had already made comments on a previous proposal at this location.

I read Claire’s response to P/2017/0320 and note she had significant concerns with regards to the proposed foul water disposal approach and requested a Foul Drainage Assessment to be submitted.

My question is, are you aware whether there is a main sewer line within 30m of the proposed dwelling? We do not have that information.

If there is, it is worthwhile pointing out to the applicant that NRW may not grant a permit for the proposed sewage treatment plant unless it can be demonstrated that it would be the most appropriate way of disposing of foul water. The applicant would therefore be encouraged to demonstrate this via submission of a Foul Drainage Assessment to your authority.

If however you know there is no mains connection within 30m, then our standard advice would apply:

Government policy states that, where practicable, foul drainage should be discharged to the mains sewer. Where this is not possible and private sewage treatment / disposal facilities are utilised, they must be installed and maintained in accordance with British Standard 6297 and Approved Document H of the Building Regulations 2000. You should also have regard to Welsh Office Circular 10/99 in respect of planning requirements for non mains sewerage.

The applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch. They may also need to apply for a Permit from our National Permitting Team to allow certain discharges into ground. They must obtain any necessary Permit prior to works starting on site. The Welsh Government has also advised that all septic tanks and small sewage treatment plant discharges in Wales will need to be registered. More information, including a step by step guide to registering, is available on our website <https://naturalresources.wales/permits-and-permissions/water-discharges/?lang=en>

*Consultation received 24/11/2017 11:50*

Based on the information provided we would only make standard comments.  
Nothing further to add.

*Consultation received 24/11/2017 11:58*

Apologies if I haven't been clear.

We would not normally comment on this type of application so my email of 13/11/2017 is still valid.

If you want to pass on the standard advice I have listed in my previous email below please do so, however as stated in my response, it is the applicant's responsibility to ensure that they secure all other permits/consents relevant to their development.

I trust this clarifies our position.

Cllr Gareth Jones

As the local member I wish to call in the above application. It has previously been before committee and was refused. There is a lot of strong support within our community for this application and indeed frustration that it was initially refused on a vote of 10 - 9. I feel that the planning committee should be given the opportunity to reconsider this application, especially given the fact the officers report and dialogue in committee stated the site was 250m away from the development boundary, when its only 90m.

## **Representations**

Following display of a site notice on 27/10/2017 for a period of 21 days no public representations have been received by Development Management at the time of writing this report.

## **Planning History**

P/2017/0320 - Outline: Erection of a detached dwelling, installation of a sewage treatment plant and improvements to existing access – Conditional Consent

## **Principal Planning Constraints**

Class 3 Road C2013

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (9<sup>th</sup> Edition, November 2016)

Technical Advice Note 1-Joint Housing Land Availability Studies (2015)

Technical Advice Note 5-Nature Conservation and Planning (2009)

Technical Advice Note 6-Planning for Sustainable Rural Communities (2010)

Technical Advice Note 12-Design (2014)



Technical Advice Note 18-Transport (2007)  
Technical Advice Note 20- Planning and the Welsh Language (2017)

Local planning policy

*Unitary Development Plan for Powys (March 2010)*

SP1-Social, Community and Cultural Sustainability  
SP2-Strategic Settlement Hierarchy  
SP5-Housing Development  
GP1-Development Control  
GP3-Design and Energy Conservation  
GP4-Highway and Parking Requirements  
ENV1-Agricultural Land  
ENV2-Safeguarding the Landscape  
ENV3-Safeguarding Biodiversity and Natural Habitats  
ENV7-Protected Species  
HP3-Housing Land Availability  
HP4-Settlement Development Boundaries  
HP6-Dwellings in the Open Countryside  
TR2-Tourist Attractions and Development Areas  
DC11-Non Mains Sewerage Treatment  
DC13-Surface Water Drainage  
T1 - Highway Improvement Schemes  
T2 - Traffic Management

Powys Residential Design Guide (2004)

Powys Joint Housing Land Availability Study (2016)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

**Officer Appraisal**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

The application is for outline consent for an affordable dwelling with some matters reserved. Should permission be granted, reserved matters (appearance, landscaping, layout and scale) will form separate applications for consideration at a later date.

The application site lies wholly outside the settlement boundary of Llanfair Caereinion, and would therefore result in a new dwelling being constructed outside the settlement boundary. For the purposes of the Powys Unitary Development Plan, the site subject to this application therefore lies within the open countryside. On this basis, the proposal constitutes a departure from the adopted Powys Unitary Development Plan.

Members are advised that a decision to approve a departure can only be made where other material considerations outweigh the provisions of the development plan. Such material considerations include Planning Policy Wales (2016) and UDP policy HP3, which require the Local Planning Authority to ensure that sufficient land is genuinely available or will become available to provide a 5-year supply of land for housing.

The Powys JHLAS (2016) provides information on land availability and indicates a land supply of 2.2 years (as of 01/04/2016). Whilst it is anticipated that the new local development plan will allocate land for residential development to address the shortfall in supply, the current figure is below the supply required by Planning Policy Wales and the adopted Unitary Development Plan. Officers acknowledge that a number of departures have recently been justified and permitted on the grounds of housing land supply. Whilst it is accepted that these permissions will contribute to the supply of housing, based upon current evidence, the housing land supply within Powys remains below the 5 year supply as required by planning policy. As such, Members are advised that considerable weight needs to be given to this undersupply in considering proposals for new residential development as exceptions to normal housing policies.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be within a sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Llanfair Caereinion is classified as an area centre within the UDP. The town has a full range of community services and facilities. The High School and Leisure Centre act as a focus for community activities, whilst the town centre provides a range of retail and financial services with employment being provided at the existing industrial estate.

The application site is approximately 119 metres from the edge of the settlement development boundary of Llanfair Caereinion.

The settlement is located on a public bus route and has good road connections with the A458 trunk road providing good access between Welshpool, Shrewsbury and Newtown. Llanfair Caereinion is therefore considered an appropriate location for further development on the grounds of sustainability.

### Design and Layout

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area. Whilst appearance, layout and scale are reserved and will be dealt with at a later point

in time, it is relevant to consider whether the dwelling proposed could be appropriately development on the site.

The application site comprises a modest plot which adjoins the curtilage of an existing dwelling. The site is currently semi improved agricultural land with a mature hedgerow separating the site from the highway. Given the natural boundary with the unclassified highway and the level aspect of the site and that there are other residential dwellings in the area, no concern is raised regarding the short range views along Watergate Street.

The site is in an area of agricultural land that when viewed from longer to midrange views sits between existing farm and residential development to the north, east and west, it is therefore considered development of the site would broadly be in keeping with the character of the area and development along Watergate Street.

The existing character of Llanfair Caereinion is a settlement with its development core flanking the River Banwy and extending out along the feeder roads, including Watergate Street, this development would broadly continue the existing form of development. Based on this appraisal it is considered that a satisfactory development could come forward that would not unacceptably harm the character of the settlement or surrounding area.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of conditional consent.

#### Highway access and parking

UDP policy GP4 requires adequate highway provision in terms of a safe access, visibility, turning and parking.

A new vehicular access would be constructed off the C2013 (Watergate Street) to the north east of the development site.

The Highway Authority have raised no objection to the construction of a new access onto the C2013 classified highway, subject to the recommended conditions forming part of any forthcoming consent. Subject to the recommended conditions it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

#### Impact upon amenities enjoyed by occupiers of neighbouring residential properties and the proposed dwellings

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties will not be unacceptably affected.

Although layout is a reserved matter, consideration has been given to the potential separation distances between properties, as well as their siting, orientation and elevation, and it is not believed that the proposal would unacceptably impact on residential amenity.

The closest neighbouring property is Maes Hyfryd which adjoins the site boundary to the west, taking into consideration the small scale of the proposal and siting of Maes Hyfryd

away from the curtilage boundary, it is not believed that the proposal would unacceptably impact on residential amenity.

As such, subject to details on appearance and layout which would be considered at reserved matters stage, it is considered that adequate provision could be made for amenity in terms of privacy as set out within the Powys Residential Design Guide and UDP policy GP1.

#### Foul sewage disposal

The submission indicates that foul sewerage would be disposed of via a private means of treatment: package treatment works.

The preferred method of foul sewage disposal is via the mains sewer, the agent has confirmed that there is no mains sewer within an acceptable distance of the site.

Natural Resource Wales and Environmental Health have raised no objections in relation to the proposed drainage of the site.

It is therefore considered that the proposal would make adequate provision for the disposal of foul sewage in accordance with Welsh Officer Circular 10/99 and UDP Policy DC10.

#### Surface water disposal

UDP Policy DC13 requires proposals to make adequate provision for land drainage and surface water disposal. The submission states that surface water would be disposed of via soakaways but no further details have been provided at this stage.

The site is classed as Greenfield. Therefore, proposed surface water flows should be equivalent to existing Greenfield run-off in accordance with the principles of TAN15 — Development and Flood Risk and good practice drainage design. The use of soakaways and or other infiltration techniques should be investigated in the first instance for surface water disposal. If soakaways are not feasible, drainage attenuation to limit the discharge rate from the site no greater than the Greenfield run-off rate should be applied. This is generally controlled via planning conditions with full details of a drainage scheme coming in a reserved matters stage or prior to commencement of development.

It is noted that the proposed surface water drainage arrangements (soakaways) are based on the assumption that ground conditions will be suitable for soakaways which is not an unusual occurrence for an outline application where only the principle of development is sought.

Having considered the detail of the submission, it is considered that there is satisfactory space within the development to secure a drainage scheme that would manage the existing drainage on the site and not exacerbate or create flooding elsewhere.

#### Ecology

The Council acknowledges the need to protect biodiversity from adverse development through careful monitoring, maintenance and the protection of habitats and species worthy of conservation. Therefore the nature conservation policies in the UDP seek to safeguard and

enhance biodiversity, and these objectives are also echoed in national policy (TAN1 5 and Planning Policy Wales).

The site is primarily grazed semi improved agricultural land, the site is bounded by a hedgerow to the north and west. The majority of the northern hedgerow would appear to be removed and replaced to facilitate a visibility splay. The western hedgerow forms a boundary with the neighbouring property and as such is likely to be retained.

Historic records of European protected species from the vicinity of the site are sparse, but there are records of at least 3 bat species and otter from within 2km. No bat roosts or potential bat roosts would appear to be lost as a result of the proposals. However, the northern hedgerow is likely to provide linear commuting and foraging habitat for a range of bat species.

The foul water discharge from the development would be via an outfall to an existing watercourse. The Ecological Constraints Assessment prepared by Star Ecology (August 2017) has considered the potential ecological impact of this proposal on otters and other species using the watercourse and riparian habitats, and concludes that the proposed discharge location is of low/negligible ecological value and no further ecology/protected species survey work is recommended.

The creation of the new visibility splay would require the removal of a large section of hedgerow. The Ecologist suggests that any removed hedgerow is translocated behind the new visibility splay instead of buying and planting new stock. It is also further considered that if additional lighting is also required a sensitive lighting scheme is also implemented to avoid any negative impacts on nocturnal wildlife, including bats, which may use the boundary hedgerow habitats.

The Ecologist recommends that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.

As the proposed development will connect to a sewage treatment plant, which will discharge to a watercourse, the ecologist recommend that NRW are consulted regarding consents for the discharge. Natural Resources Wales were asked for further comments regarding the discharge into the water course and stated that the applicant will need to apply for a Permit or Exemption, if they wish to discharge anything apart from uncontaminated surface water to a watercourse/ditch.

In light of the above and subject to the inclusion of the recommended conditions and the grant of a permit it is therefore considered that the proposed development fundamentally complies with relevant planning policy and the recommendation is therefore one of conditional consent.

### Welsh Language and Culture

Planning Policy Wales (PPW) notes the Welsh Governments commitment to ensuring the Welsh Language is supported and encouraged to flourish as a language of many communities all over Wales. It highlights that it should be the aim of local planning authorities

to provide for the broad distribution and phasing of housing development taking into account the ability of different areas and communities to accommodate the development without eroding the position of the Welsh language. It does however also note that policies must not introduce any element of discrimination between individuals on the basis of their linguistic ability, and should not seek to control housing occupancy on linguistic grounds.

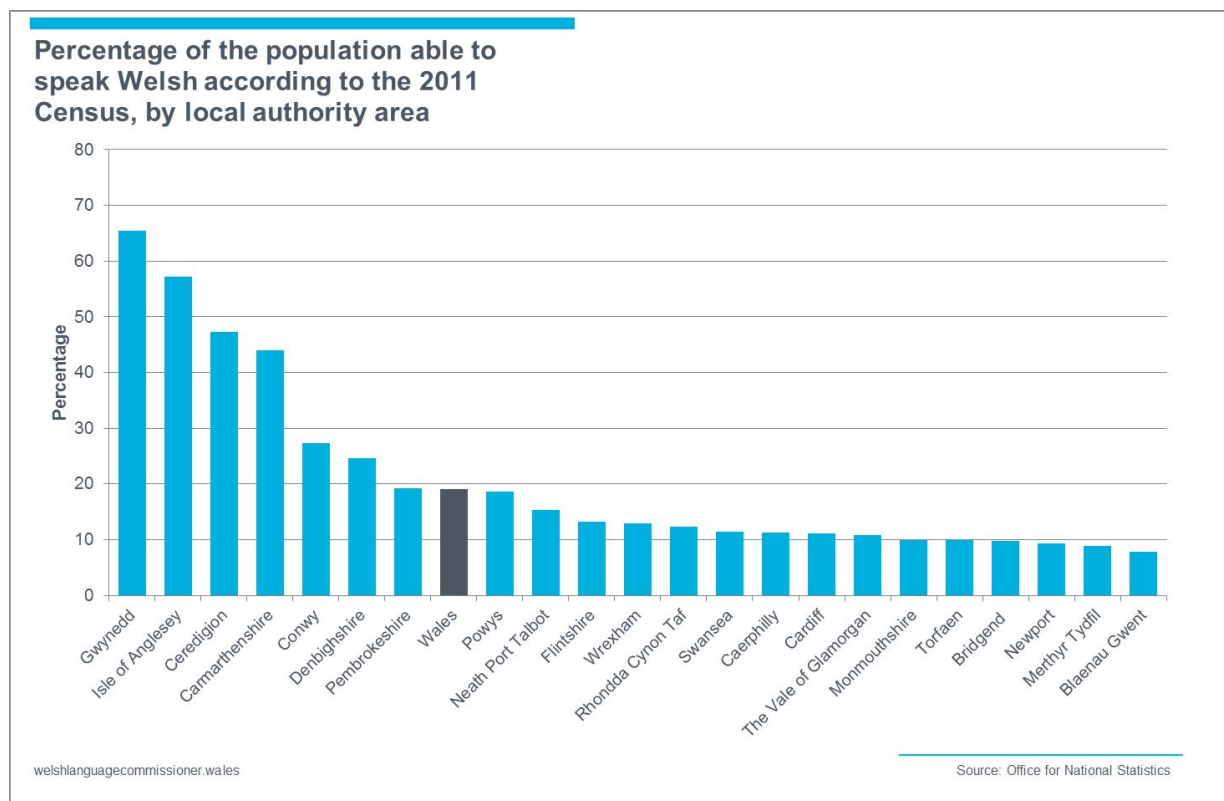
With regards to the Development Management function, PPW states as follows:

“Consideration relating to the use of the Welsh Language may be taken into account by decision makers so far as they are material to applications for planning permission. If required, language impact assessments may be carried out in respect of large developments not allocated in, or anticipated by, a development plan proposed in areas of particular sensitivity or importance for the language. Any such areas should be defined clearly in the development plan. Decisions on applications for planning permission must not introduce any element of discrimination and should not be made on the basis of any person(s) ‘linguistic ability’.”

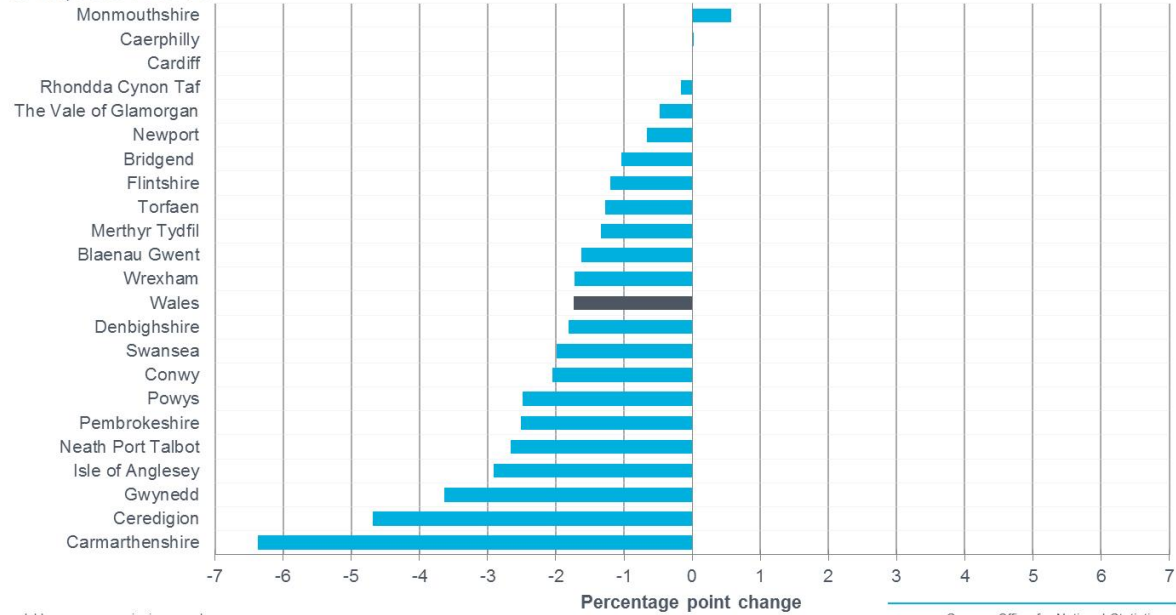
Policy GP5 of the Powys UDP states that within identified settlements proposals will only be acceptable where developers can demonstrate that they have taken full account of the importance of the Welsh Language and culture, including through the provision of an appropriate level of affordable homes. Llanfair Caereinion has been identified as one of the settlements under policy GP5.

### Census Information

Looking at a Local Authority level the graph below provides a picture of the Welsh Language in Powys compared to that in the rest of Wales;



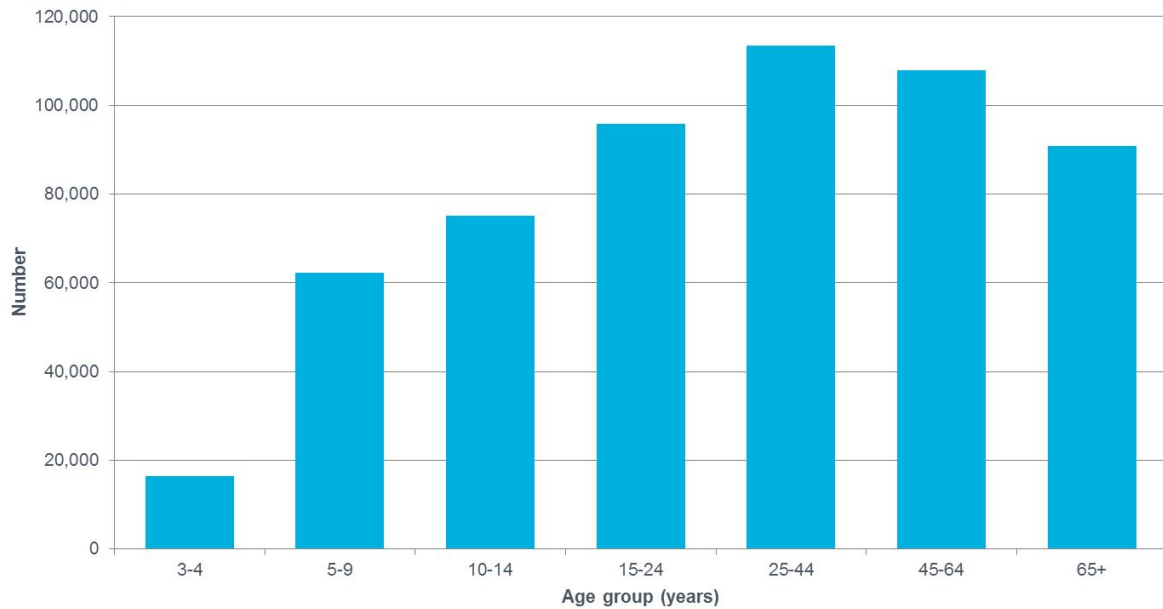
**Change in the percentage of the population able to speak Welsh (percentage point), by local authority area, 2001-2011**



welshlanguagecommissioner.wales

Source: Office for National Statistics

**Number of people able to speak Welsh in Wales according to the 2011 Census, by age group**



welshlanguagecommissioner.wales

Source: Office for National Statistics

2001 Census

All people aged 3 and over	Understands spoken Welsh only	Speaks but does not read or write Welsh	Speaks and reads but does not write Welsh	Speaks, reads and writes Welsh	Other combination of skills	No knowledge of Welsh
1,563	122	79	24	499	55	784

#### 2011 Census

All usual residents aged 3 and over	No skills in Welsh	Can understand spoken Welsh only	Can speak Welsh	Can speak but cannot read or write Welsh	Can speak and read but cannot write Welsh	Can speak, read and write Welsh	Other combination of skills in Welsh
1,757	910	148	632	74	40	512	73

The census information has been looked at by the Welsh Language Commissioner who has provided the following breakdown regarding the ability to speak Welsh in the area.

	2011	2001	2011	2001
Age	%	%	Number	Number
3+	36	39	632	613
3-15	62.3	56.5	198	183
16-64	29.5	31.9	326	313
65+	32.2	43.8	108	117

It is apparent from the figures above that the numbers of people speaking Welsh in the Llanfair Caereinion ward has decreased by 3% overall with 2.4% being dropped in the 16-64 age category. However consideration should be given to the fact that the percentage of Welsh speakers in the 3 – 15 age group has increased by 5.8%.

In assessing the impact of the proposed development on the Welsh Language and culture of the area the following statement has been submitted;

*“We accept that Llanfair is an identified settlement under Policy GP 5 and as such we have taken the importance of the Welsh Language and Culture into account through the provision of a housing mix, through the sustainable location and obviously through the provision of affordable homes”.*

It is not considered that a development of a single affordable dwelling proposed would threaten these facilities or force sections of the population away from these facilities. It is considered that there is an intrinsic link between the provision of affordable housing and the cultural and linguistic vitality of an area. Affordable dwellings allow existing residents to remain in the area and where the area has a strong Welsh Language presence, this aids in retaining those residents and helps to mitigate against the impact of a development on the Welsh language.

In relation to economic development, it is considered that the potential construction of the dwelling would contribute to the economy of the local area. This is based on the assumption that most construction projects of this scale are normally undertaken by local trade’s people. It is therefore considered that the construction of this development would have a neutral or



positive impact on the local economy and jobs which is considered positive from a Welsh language and culture perspective.

In light of the above it is considered that the proposed development could sustain and enhance the services currently within Llanfair Caereinion and the provision of housing and affordable dwellings will help sustain and enhance the cultural and linguistic vitality of the area.

### **Other Legislative considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## RECOMMENDATION

Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval subject to conditions.

### Conditions

1. Details of the layout, appearance, landscaping and scale, (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to commencement of development the development shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex B of TAN 2 or any future guidance that replaces it. The scheme shall include:
  - i. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - ii. the arrangements for the transfer of the affordable housing to an affordable housing provider [or the management of the affordable housing (if no RSL involved)];
  - iii. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - iv. the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
6. The affordable dwelling hereby approved shall have a maximum gross floor area of 130 square metres (measured internally and including garages where designed as an integral part of the dwelling) and notwithstanding the provisions of schedule 2, part 1, classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 2013 (as amended for Wales) (or any order revoking and re-enacting that order with or without modification), the affordable dwelling shall not be subject to extensions, roof alterations and buildings other than those expressly authorised by the reserved matters approval.
7. Prior to the occupation of the dwellings any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as

to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

8. The gradient of each access shall be constructed so as not to exceed 1 in 15 for the first 10 metres measured from edge of the adjoining carriageway along the centre line of that access and shall be retained at this gradient for as long as the development remains in existence.
9. The centre line of the first 10 metres of each access measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
10. Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
11. Prior to the commencement of the development the area of each access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 10 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
12. Prior to the occupation of the dwellings, provision shall be made within the curtilage of the site for the parking of not less than one car per bedroom in accordance with CSS Wales Parking Standards excluding any garage space provided together with a turning space such that all vehicles serving each plot may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
13. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
14. The width of the access carriageway, constructed as condition 11 above, shall be not less than 5 metres for a minimum distance of 10 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

15. Prior to the occupation of the dwelling the area of each access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 10 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
16. When installed there shall be a minimum clearance of 6 metres from the nearest part of the adjoining highway verge or footpath to any part of the septic tank or its soakaway installation.
17. Upon formation of the visibility splays as detailed in condition 10 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
18. No storm water drainage from the site shall be allowed to discharge onto the county highway
19. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method and Implementation Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
20. Prior to the first installation of any external lighting a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval. Development thereafter shall be completed in full accordance with the details as approved.
21. No development shall commence until details of a scheme for the disposal of foul and surface water has been submitted to and agreed in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to the first use of the development and retained in perpetuity.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In order to ensure the provision of affordable housing in accordance with policies HP9 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).

6. In order to ensure the provision of affordable housing in accordance with policies HP9 and HP10 of the Powys Unitary Development Plan (2010), Technical Advice Note 2 – Planning and Affordable Housing (2006) and Planning Policy Wales (2016).
7. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
8. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
9. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
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16. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
17. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
18. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
19. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.
20. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

21. In the interest of adequate disposal of foul sewage and surface water in accordance with Welsh Officer Circular 10/99 and Unitary Development Plan Policy DC10.

### **Informative Notes**

#### Building Control

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

#### Wales and West Utilities

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

#### Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

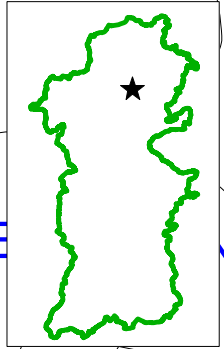
All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.



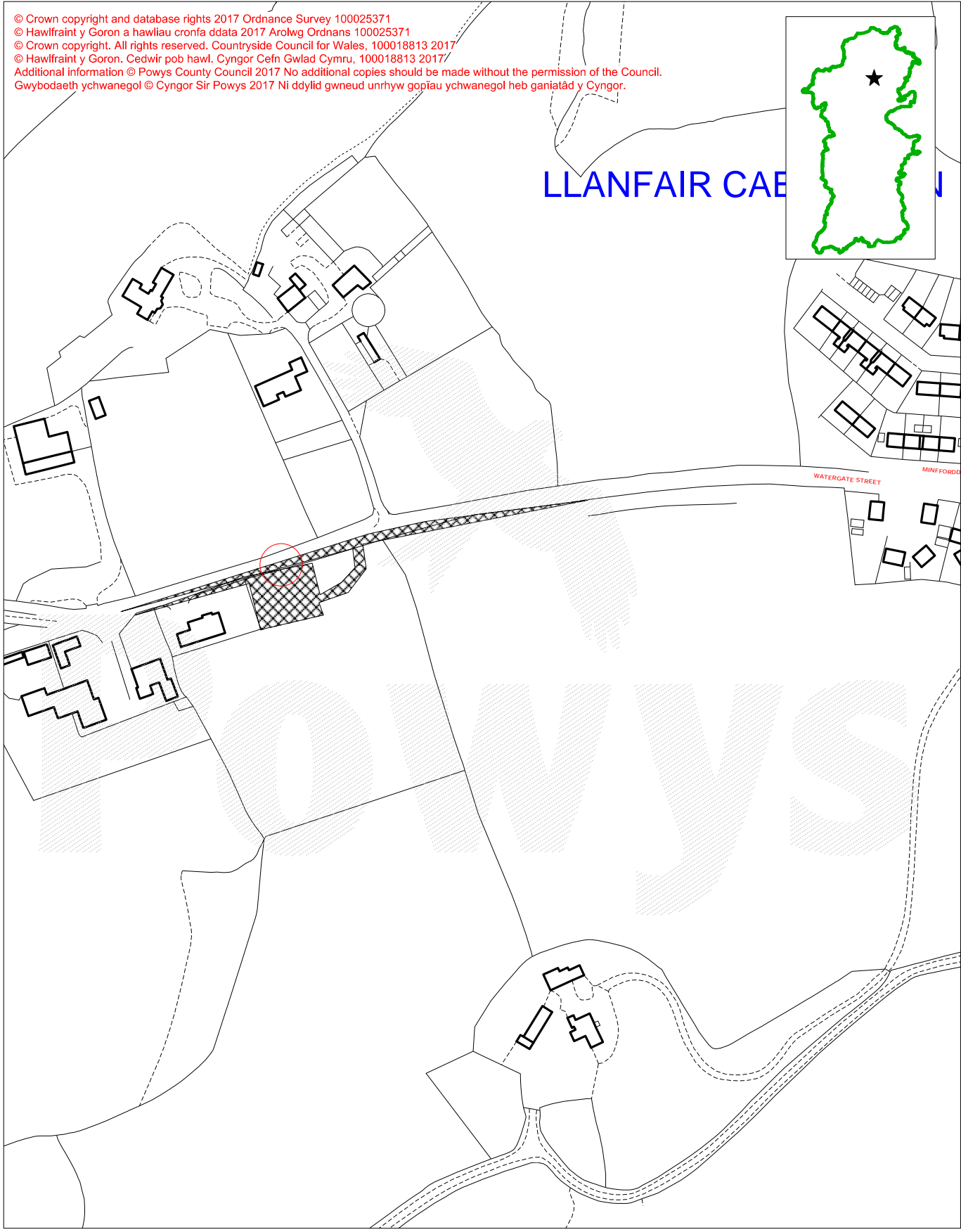
Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



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LLANFAIR CAE



Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.10

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1191	<b>Grid Ref:</b>	300917.62 310833.8
<b>Community Council:</b>	Banwy	<b>Valid Date:</b>	<b>Officer:</b> 13/10/2017 Sara Robinson
<b>Applicant:</b>	Mr & Mrs Rees, Tanyllan 11, Tregynon, Newtown, Powys, SY16 3HA		
<b>Location:</b>	Land adj to Hen Efail, Foel, Welshpool, Powys, SY21 0PU		
<b>Proposal:</b>	Outline: Erection of a detached dwelling and garage, and all associated works (some matters reserved)		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application site is located outside of the development boundary and in the open countryside as defined by the Powys Unitary Development Plan (2010).

### Site Location and Description

This application is in respect of the erection of a dwelling and garage. The application has been submitted in outline with all matters reserved.

The application site is located within the rural settlement of Rhandir and close to the small village of Llangadfan. The site is currently part of an agricultural field and is bound to the north by the class III highway, the C2111. To the east, south east, west and north west there are a number of detached dwellings located in a linear pattern along the county highway. The site extends to 0.15 hectares in area.

### Consultee Response

#### Banwy Community Council

Following a recent Council meeting, I am writing to advise that Banwy Community Council supports this application.

One outline planning application has already been granted on the site with Community Council support based on the specific needs of a known applicant. Proposals for full consent (P/2017/1104) have been supported by the Council and are awaiting determination. Highways access is a major part of this application, and the proposed access makes provision for access to the remainder of the site.

The current application is from a young family known to the Council seeking to move closer to relatives. Their application makes use of the shared access and therefore raises no new access issues with the C2111 road.

In the Council's view, the site is close to both eastern pockets of the dispersed Llangadfan small village identified in the current UDP. With one dwelling already consented in outline and with the circumstances of the applicants for this adjacent plot, the Council believes this is acceptable and worthwhile infill on the site.

### Powys Highways

The County Council as Highway Authority for the County Class III Highway, C2111

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction.

Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, up to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

The width of the access carriageway, constructed as conditioned above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### Powys Building Control

No comments were received at the time of writing this report.

#### Wales and West Utilities

Wales & West Utilities acknowledge receipt of your notice received on 20.10.2017, advising us of the proposals for:

Henefail, Llangadfan, Welshpool, Powys, SY21 0PU

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Powys Environmental Health

As the proposed dwelling will connect to the mains foul drainage, I have no objection to the application.

### Ecology-

Ecological Topic		Observations
<b>EIA Screening Opinion needed?</b>	No	Powys Council have provided a screening opinion for the application. No Environmental Impact Assessment (EIA) has been requested, as whilst the proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment (Wales) Regulations 2017, it does not exceed the applicable thresholds and criteria specified in the Regulations. In the opinion of the Local Planning Authority (LPA), the development is not likely to have any significant environmental effects.
<b>Ecological Information included with application?</b>	No	<p>No ecological information has been submitted with the application. Observations have been made based on the historic biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service, and through using the available plans and aerial imagery.</p> <p>The proposed development site is located on an area of greenfield land consisting of 0.1 hectares. The River Banwy, which is bordered with mature trees, is located approximately 160m north of the site. Aerial imagery shows the proposal site's agricultural land is bounded by hedgerows and mature trees, and a pond lies a short distance to the north.</p> <p>The proposal site is within the rural settlement of Rhandir and is situated on agricultural land within a cluster of dwellings.</p>
<b>Protected Species &amp; Habitats<sup>1</sup></b>	European Species	<p>A number of historic records of European Protected Species have been found within the search area of the proposals.</p> <p>Several species of bat have been recorded within 1km, including Common and Soprano Pipistrelle, Noctule, and</p>

<sup>1</sup> Species records within 1km (minimum).

	<p>Natterer's bat. An unknown species of bat has also been found. The trees and hedgerows in the area surrounding the proposed development may offer suitable roosting, commuting and foraging habitat for bats. I therefore suggest that the northern boundary hedgerow to be removed is translocated along the new visibility splay instead of buying and planting new stock.</p> <p>Several small, ivy-clad trees are located at the proposed entrance to the site and would appear to need to be removed. It is therefore recommended that the applicant and contractors be informed of the possibility of encountering bats unexpectedly during tree works. If bats are encountered on site works should stop immediately and NRW should be contacted. Recommendations are made for sensitive felling procedures to be applied.</p> <p>Historic records of Otters and Atlantic Salmon have also been found within the search area. Due to the nature, scale and location of the proposals, no adverse impacts on these species are anticipated.</p>
UK Species	<p>Historic records of Badgers have been found within the search area of the proposed development; although these records were not in the immediate area. The surrounding open agricultural land and hedgerows may offer suitable habitat for badgers, however, no adverse impacts are anticipated as a result of the development.</p> <p>Common Lizards have also been recorded within the search area of the proposals. The hedgerow that borders the site to the north could provide suitable shelter for common reptile species. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance required to facilitate the proposed access and associated sightlines. Suitable mitigation should also be provided to offset any losses of suitable reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>The boundary hedgerow to the north also offers suitable habitat for a range of nesting bird species. I therefore recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>

	Section 7 Species & Habitats	<p>The applicant should be mindful that, in accordance with Powys County Council’s duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>In addition to the species above, a number of Section 7 Priority Species have been recorded within the search area of the proposals, including Brown/Sea trout and Marsh Fritillary. Due to the nature, scale and location of the proposals, no adverse impacts on these species are anticipated as a result of the development.</p> <p>Historic records of Hedgehogs have also been found within the search area. It is therefore recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider hedgehogs.</p> <p>Hedgerows are a Section 7 Priority Habitat and a hedgerow borders the north of the proposed site. Based on the submitted plans, it appears that the northern hedge would be removed to facilitate the proposed new site boundary. I recommend that the extent of vegetation removal is kept to a minimum and where it needs to be removed this should be mitigated through translocation and shown in a proposed landscape design drawing.</p> <p>Additionally, it is to my understanding that two new hedgerows to the front and rear of the property are to be planted as part of the development along with a series of trees. I recommend that native, locally-occurring plant species are included in all landscaping associated with this application and a species list for the landscaping should therefore be provided for approval prior to commencement of development.</p> <p>There are records of nesting House Sparrows within the search area. As a site biodiversity enhancement measure I recommend that a bird nest box appropriate for House Sparrows is provided within the new development.</p>
	LBAP Species & Habitats	Please refer to the observations above.



<b>Protected Sites</b>	International Sites (within 1km)	No internationally protected sites were found within 1km of the proposals.
	National Sites (within 1km)	No nationally protected sites were found within 1km of the proposals.
	Local Sites (within 500m)	None found within the search area.
<b>Invasive Non-Native Species</b>	<b>Unknown</b>	No ecological information has been submitted with the application to determine the presence of any invasive non-native species.
<b>Recommendations</b>	<p>As a precaution it is recommended that the following sensitive felling procedure be implemented to minimise disturbance to bat populations. If bats are encountered on site works should stop immediately and NRW should be contacted:</p> <ul style="list-style-type: none"> <li>• Where tree felling or lopping is planned, such work should only be carried out between September and February to avoid the bird-breeding season.</li> <li>• If the tree trunk is smaller than 200mm diameter <b>and</b> if it has no dense ivy, suitable holes, loose bark, and no holes associated with the root system, work can be carried out on the tree between September and February (<i>i.e.</i> avoiding the bird breeding season).</li> <li>• To avoid disturbing nursery roosts, work will <b>never</b> be carried out between June and August inclusive.</li> <li>• If the tree does have any of the features listed above or has a trunk size greater than 200mm, it should be cut <b>only</b> in September and October when bats, including young are still mobile and able to fly-out.</li> <li>• Any timber cut should be left lying on the ground for at least 24 hours to allow bats the opportunity to escape.</li> <li>• Where the loss of mature trees is unavoidable, compensatory planting with appropriate locally native species, preferably of local provenance, should be undertaken.</li> </ul> <p>I recommend that native, locally-occurring plant species are included in any landscaping associated with this application and a species list for the landscaping should be provided for approval prior to commencement of development.</p> <p>Due to the presence of Section 7 bird species, I recommend that a bird box suitable for nesting House Sparrows should be erected.</p>	

	<p>I suggest that the northern boundary hedgerow to be removed is translocated along the new visibility splay instead of buying and planting new stock.</p> <p>I recommend that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles and hedgehogs during any vegetation clearance required to facilitate the proposed access and associated sightlines. Suitable mitigation should also be provided to offset any losses of suitable reptile and hedgehog habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p> <p>I recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p>
<p><b>Further information required prior to determination of application</b></p>	<p>I consider that sufficient information has been provided to determine the ecological impact of this proposal.</p>
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Biodiversity Enhancement Plan, including appropriate nest box and species planting mix proposals, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.</p> <p><i>Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council’s UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government</p>

strategies, and the Environment (Wales) Act 2016.

### **Informatives**

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

#### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as

	<p>amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email <a href="mailto:enquiries@bats.org.uk">enquiries@bats.org.uk</a></p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b> All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 7: Protected Species</p>

## Representations

Following display of a site notice on 27/10/2017 for a period of 21 days six public representations of support have been received by Development Management at the time of writing this report.

- Important to keep young local people in the area
- Dwelling is in keeping with surrounding properties
- Benefits the school & Welsh Language
- The applicant works locally so the development is sustainable
- The site is appropriate for development and is close to other properties.

## Planning History

P/2016/0849 - Erection of a dwelling and garage – Conditional Consent

P/2017/1104 - Reserved Matters application relating to erection of a dwelling and garage following outline approval P/2016/0849 – Decision Pending

## **Principal Planning Constraints**

Class 3 Road

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (9th Edition, 2016)

Technical Advice Note (TAN) 1 - Joint Housing Land Availability Study (2015)

Technical Advice Note (TAN) 5 - Nature Conservation and Planning (2009)

Technical Advice Note (TAN) 12 - Design (2016)

Technical Advice Note 20: Planning and the Welsh Language (2017)

Technical Advice Note (TAN) 23 - Economic Development (2014)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### Local planning policies

Powys Unitary Development Plan 2010.

SP2 – Strategic Settlement Hierarchy

SP4 – Economic and Employment Developments

SP5 – Housing Developments

SP6 – Development and Transport

SP12 – Energy Conservation and Generation

GP1 – Development Control

GP2 – Planning Obligations

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

GP5 – Welsh Language and Culture

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV7 – Protected Species

HP3 - Housing Land Availability

HP4 - Settlement Development Boundaries and Capacities

HP5 - Residential Development

HP6 - Dwellings in the Open Countryside

HP14 – Sustainable Housing

DC1 – Access by Disabled Persons

DC3 – External Lighting

DC8 – Public Water Supply

DC11 – Non mains Sewage Treatment

DC13 – Surface Water Drainage

TR2 – Tourist Attractions

T1 - Highway Improvement Schemes

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## Officer Appraisal

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

The application site lies outside of any development boundaries identified in the Powys Unitary Development Plan (2010) and is within the rural settlement of Rhandir.

Outside of settlement boundaries, UDP Policy HP4 applies and states that 'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered a departure.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Paragraph 9.2.3 of Planning Policy Wales states that '*Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.*'

The Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

*"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5 year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies".*

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies. Therefore, all material planning considerations are required to be taken into account as are all relevant national and local planning policies and balanced with the undersupply of housing land currently available in Powys.

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Rhandir is defined in the UDP as a rural settlement. The Small Village of Llangadfan is a short driving distance of 0.3 Kilometres to the east of Rhandir which offers services.

In this instance, whilst the development is located in the rural settlement of Rhandir, it can also be considered to be adjoining the settlement of Llangadfan. Llangadfan is classed as a small village within the Powys Unitary Development Plan and is considered to be an appropriate location for small scale residential development. The settlement is served by a church, primary school, community centre, football pitch, public house, garage, local shop and café. It is also served by a bus route. In light of the above, it is considered that the site is a sustainable location for the development of a single residential unit.

In light of the range of services located within a short travelling distance of the development site, officers consider that there is an argument to support the principle of residential development at this location given its siting within an existing rural settlement. Therefore, the proposed site is considered to be a sustainable location for residential development.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

This application is submitted in outline with some matters reserved to be considered during the submission of the reserved matters.

Whilst access, scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site and stated that the single dwelling proposed is to be a detached two storey dwellings with five bedrooms.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a single dwelling without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

## Siting

Rhandir settlement consists of detached dwellings located in a linear pattern along the county highway. The proposed site is located opposite the dwellings known as Hen Efail and Maes Dderwen. The site is located adjacent to the dwelling permitted under application reference P/2016/0849 as it was considered that the site did form part of the settlement of Rhandir.

In light of previous judgements made by the Council, it is considered that the current proposal site is integrated within the rural settlement and accords with the policy on this matter. Due to this permitted dwelling and the surrounding existing dwelling this exception site is considered acceptable in visual impact terms.

## Amenity

Policy GP1 of the Powys Unitary Development Plan states that the amenities enjoyed by the occupants of nearby neighbouring properties should not be unacceptably affected by development proposals and the proposal should complement and where possible enhance the character of the surrounding area.

The site layout is a reserved matter and not to be determined at this stage; however, the indicative site layout plan indicates that the dwelling will be located adjacent to the east the dwelling permitted under P/2016/0849. The dwelling known as Hen Efail is located approximately 15 metres to the north of the proposed site boundary.

The indicative layout shows that the dwelling would be located approximately 23 metres to the north east of the proposed dwelling and it is considered that there is sufficient distance between the existing property and the proposed dwelling as to not have a significant adverse impact upon the amenities enjoyed by the occupants of the Hen Efail.

This layout is for indicative purposes only and the layout of the site could be altered at any reserved matters application stage. The indicative layout is considered to be appropriate and would comply with policy GP1 and GP3 of the Powys Unitary Development Plan 2010.

## Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

In terms of landscaping the submission proposes the plantation of trees. Landscaping is a reserved matter and therefore detailed proposals would be considered at a later date.

Whilst the site would be visible from public vantage points including the public highway and the proposal would result in a visual change in comparison to the current agricultural use, taking into account the location opposite and adjacent to existing dwellings within the settlement, that landscaping measures would reduce the visual impact and that the proposed scale of the dwelling, it is considered that a satisfactory detailed design could come forward to reflect the overall character and appearance of the settlement and surrounding area.



In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

The Highway Authority have been consulted on this application and have raised no objections to the development subject to the suggested conditions listed above regarding entrance gates, parking provision and access construction methods and materials.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Foul and Surface Water Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding.

Policy DC10 of the Powys Unitary Development plan seeks to ensure that development proposals are only permitted where they can be adequately served by the public foul sewerage system.

Severn Trent Water were consulted on the application and stated that as the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied. Environmental Health were also consulted and stated that provided the proposed dwelling is connected to the mains foul drainage I have no objection to the application.

In light of this, subject to appropriately worded conditions it is considered that surface water drainage can be appropriately managed.

### Ecology and Biodiversity

As part of this application process our County Ecologist had been consulted and has provided comments on the application. The Ecologist stated that having reviewed the proposed plans as well as local records of protected and priority species and designated sites within 1km of the proposed development. The data search identified a number of historic records of European Protected Species have been found within the search area of the proposals. Several species of bat have been recorded within 1km, including Common and Soprano Pipistrelle, Noctule, and Natterer's bat. Historic records of Otters and Atlantic Salmon have also been found within the search area. Due to the nature, scale and location of the proposals, no adverse impacts on these species are anticipated.

No internationally or nationally protected sites were found within 1km of the proposals.

The ecologist has stated that as a precaution it is recommended that the stated sensitive felling procedure be implemented to minimise disturbance to bat populations. If bats are encountered on site works should stop immediately and NRW should be contacted.

The Ecologist has therefore requested that a number of conditions and informative are attached to any grant of planning permission. The ecologist has also made recommendations for the applicant and agents consideration.

It is considered that, in light of the Ecologist's comments and subject to the inclusion of the suggested conditions on lighting the proposed development fundamentally complies with policies ENV7 of the Powys Unitary Development Plan (2010) and Technical Advice Note (TAN) 5 Nature Conservation and Planning (2009).

### Welsh Language

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. Technical Advice Note 20: Planning and the Welsh Language provides further advice on how the planning system considers the implications of the Welsh Language. Within the Powys UDP policy GP5 identifies settlements where the Welsh Language is important to the social, cultural and community fabric of the area. Whilst it is not identified as one of these areas it is considered that the Welsh Language is a material consideration across the County.

In the 2011 census the Banwy Ward reported that 55.6% of the population spoke Welsh. This is a slight decrease from the 2001 census which stated that 61.3% of the population of Banwy spoke Welsh. The development of a single dwelling in this settlement is not considered to have a detrimental impact on the cultural or linguistic vitality of the area.

### **Other Legislative Considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;

- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **RECOMMENDATION**

Whilst the proposal is a departure from the development plan, the Council's current lack of housing land supply carries considerable weight in favour of this development and given that the proposal would otherwise comply with development plan and national planning policies, the recommendation is one of conditional consent.

### **Conditions**

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXX in so far as the extent of the application site is drawn.
5. Prior to the occupation of the dwelling any entrance gates shall be set back at least 5.5 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

6. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5.5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
7. The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
8. Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction.
9. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
10. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.
11. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
12. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, up to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.
13. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
14. The width of the access carriageway, constructed as conditioned above, shall be not less than 5.5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

15. No storm water drainage from the site shall be allowed to discharge onto the county highway.
16. Prior to commencement of development, a Biodiversity Enhancement Plan, including appropriate nest box and species planting mix proposals, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
17. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.

## **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
6. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
7. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
8. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
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10. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
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13. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
14. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
15. In the interests of highway safety and to accord with Unitary Development Plan policies GP1 and GP4.
16. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

## **Informative Notes**

### Building Control

A Building regulations application will be required for this development, please contact Building Regulations on 01874 612290.

### Wales and West Utilities

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

### Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

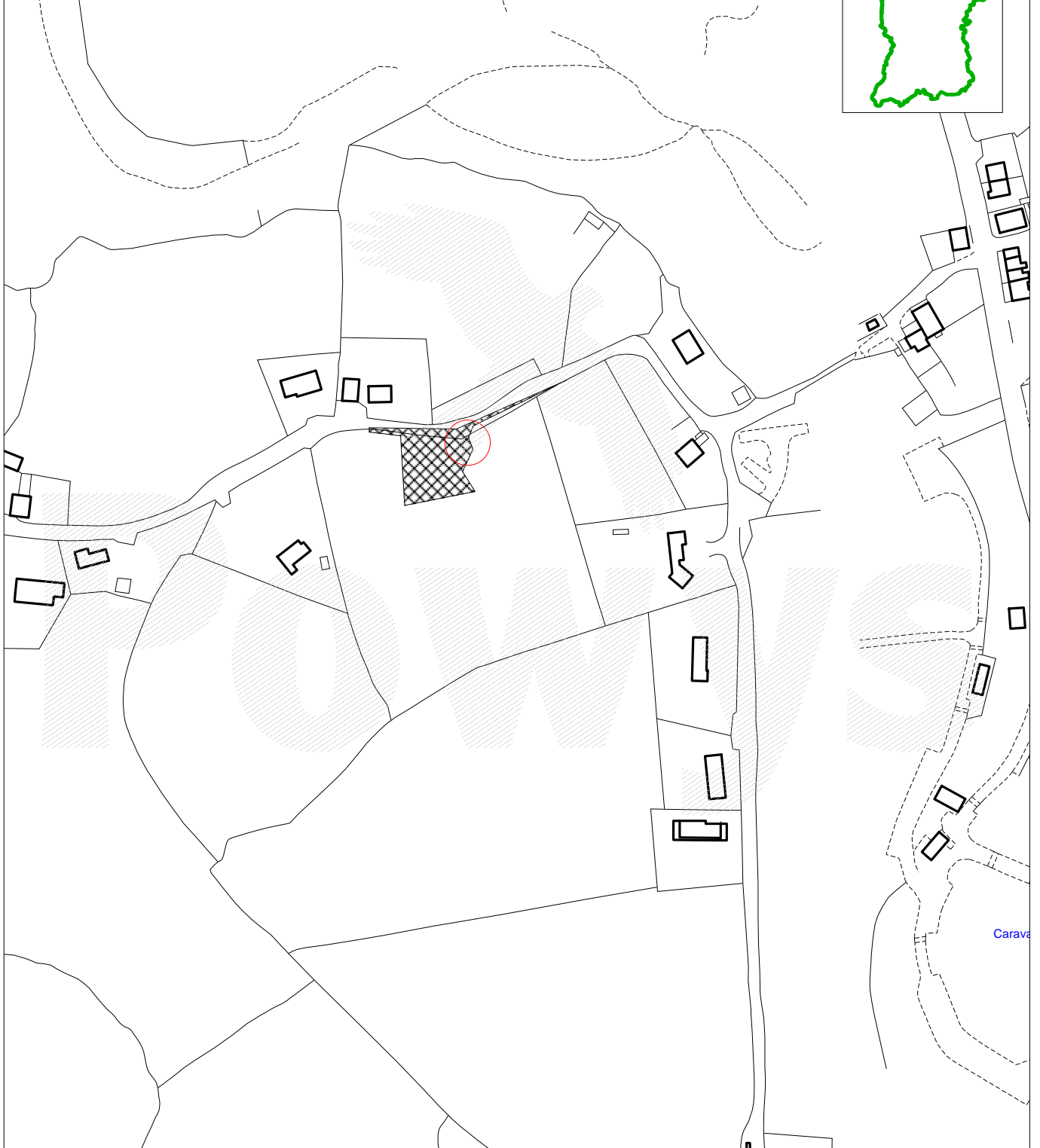
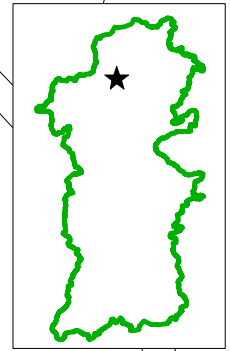
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Case Officer: Sara Robinson- Planning Officer  
Tel: 01597 827229 E-mail: [sara.robinson@powys.gov.uk](mailto:sara.robinson@powys.gov.uk)

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.11

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/0620	<b>Grid Ref:</b>	318438.86 247398.05
<b>Community Council:</b>	Painscastle	<b>Valid Date:</b>	<b>Officer:</b> 05/06/2017 Kevin Straw
<b>Applicant:</b>	Mr & Mrs Richard & Kym Hicks-Williams, Colburn, 86 Forest Drive, Catterick, Garrison, North Yorkshire, DL9 4UT.		
<b>Location:</b>	Land adjacent to Moorhays, Rhosgoch, Builth Wells, Powys, LD2 3JY.		
<b>Proposal:</b>	Full: Erection of 2 detached dwellings, formation of new access and parking, landscaping, and all other associated works.		
<b>Application Type:</b>	Application for Full Planning Permission.		

### The reason for Committee determination

The application requires a committee determination as it is recommended for approval and is a departure from the development plan.

### Site Location and Description

The site is indicated to cover an area of 0.293 hectares and is located to the south-west of Rhosgoch. The site lies approximately 200 metres outside of the development boundary of Rhosgoch, as indicated in Inset Map R86 of the Powys UDP.

The site is currently open agricultural grassland and is situated adjacent to the B4594. The former Rhosgoch school site is located northwards, across the B classed road and the site is adjacent to existing residential dwellings to the immediate east. To the south and west there is further open agricultural grassland.

Consent is sought in full for the erection of two detached dwellings, the formation of a new access and parking, landscaping and all other associated works.

The dwelling proposed to the east of the site, closest to the existing dwelling of Moorhays, is to be two storeys and measures approximately 13 metres in length, 6.1 metres in width and reaches a height of approximately 8.4 metres to ridge. The dwelling is to be finished with a combination of external stone work, render and timber cladding, finished with a slated roof. Windows and doors are to be provided in an aluminium/timber hybrid material.

The second dwelling, to the west of the proposed site is single storey and is to be configured in a large 'T' shape; this dwelling measures approximately 22.5 metres in overall length, 10.6 metres in width and reaches a height of approximately 5.8 metres to ridge. The dwelling is to be finished with a combination of external stone work, render and timber cladding, finished with a slated roof. Windows and doors are to be provided in an aluminium/timber hybrid

material. The hall link section of the proposed dwelling will be predominantly glazed and finished with a single ply membrane with metal flashings roof.

## **Consultee Response**

### Painscastle Community Council

Application number P/2017/0620. Erection of 2 dwellings with new access, parking, landscaping and all other associated works.

Painscastle Community Council note that the site of the proposed dwellings is outside the structure plan for Rhosgoch under the old UDP. They will comment further when the new LDP structure plan is adopted.

### PCC Highways

The County Council as Highway Authority for the County Class II Highway, B4594; wish the following recommendations/Observations be applied:

#### Recommendations/Observations

The Highway Authority recommends that the following conditions be attached to any consent granted.

HC1 Prior to the occupation of the dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Within 5 days from the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in a westerly direction and 85 metres distant in an easterly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Within 5 days from the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Within 5 days from the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC21 Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC32 No storm water drainage from the site shall be allowed to discharge onto the county highway.

#### PCC Building Control

P/2017/0620 – Building Regulations approval will be required for this proposal.

#### Welsh Water

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development.

#### Sewerage

As the applicant intends utilising a private treatment works we would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of

drainage disposal. However, should circumstances change and a connection to the public sewerage system/public sewerage treatment works is preferred we must be re-consulted on this application.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are re-consulted and reserve the right to make new representation.

#### PCC Environmental Health

*Comments received on 03/07/2017:*

Re this application, can you confirm that the porosity test holes remain open for inspection please and if so is it ok for us to visit when passing or does the applicant require notice.

On another issue, I note that the drainage field will be located outside the application site boundary, is this acceptable as if the field were to be sold on in future may cause issues, what are your thoughts on this please

*Additional comments received on 18/08/2017:*

Kevin Bray the Environmental Health Officer assigned the above referenced planning application. I can confirm I emailed Kevin on Wed 19/07/2017 having done a site visit. I confirmed to him that everything was ok with the test holes. I have included him in this email so he can respond on his return to work on Monday 21/08/17. I apologies for the delay.

*Additional comments received on 29/08/2017:*

As everything seems ok following Simon's visit I have no further comments to make other than the drainage system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system.

#### PCC Ecologist

*Comments received on 01/09/2017:*

Thank you for consulting me with regards to planning application enquiry P/2017/0620 which concerns the full application for the erection of 2 dwellings, formation of new access and parking, landscaping and all other associated works on Land adjacent to Moorhays, Rhosgoch, Builth Wells.

I have reviewed the proposed plans, aerial images and site photographs of the proposed site and surrounding habitat of the development, as well as local records of protected and priority species and designated sites within 500m of the proposed development.

The data search identified 23 records of protected and priority species within 500m of the proposed development. The data search identified records of Great Crested Newts in the surrounding area (within 200m).

There are no statutory or non-statutory designated sites present within 500m of the proposed development.

I note from aerial images that there are ponds located to the south of the proposed development site, the closest being approximately 220m from the site of the proposed development. Given the identification of great crested newt records in the surrounding areas and the proximity to the ponds it is considered that the proposed development has potential to impact great crested newts - in the loss of potential terrestrial habitat for this species or as the result of creation of a barrier to their dispersal to surrounding suitable habitat.

Given the proposed development will involve alterations to the surrounding habitat (removal of a section of hedgerow) consideration should be given to the potential of the site to be used as terrestrial habitat by Great Crested Newts which are a European protected species.

Therefore it is considered that there is insufficient information with regard to potential impacts to Great Crested Newts, a European protected species, to determine this application. Further information is required to be submitted prior to determination of the application.

It is important to note that further surveys following National guidelines at the appropriate time of year maybe be required for any species that are found or have potential to be present. These surveys will need to be carried out and results and any mitigation measures proposed submitted to the LPA prior to determination of the planning application. Mitigation and compensation strategies will be required for any impacts upon protected species and loss of habitat.

If any mitigation and/or compensation strategies proposed for the development, full details must be provided with the planning application and where appropriate clearly illustrated on the proposed plans.

Ecological reports submitted to support a planning application should include the required information identified in Appendix A of Powys UDP, Interim Development Control Guidance - Biodiversity (April 2009).

The applicant should be mindful that in accordance with Powys County Council's duty under Part 1 Section 6 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity IDCG, as part of the planning process Powys should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.

Details of ecological consultants working in Powys can be found at <http://www.cieem.net/members-directory> (please note this is not a Powys County Council approved list of ecological consultants but lists ecological consultants who are members of the Chartered Institute of Ecology and Environmental Management). I have also attached some guidance notes regarding commissioning ecological consultants to undertake survey work.

### Trees and Hedgerows

From the proposed plans it appears that a section of the hedgerow to the northern boundary is proposed to be removed as well as new hedgerow planting proposed for the development site.

The UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that:

‘Proposals which are acceptable in principal should:

3. Seek to conserve native woodlands, trees and hedgerows’

UDP Policy ENV6: Sites of Regional and Local Importance, makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – ‘Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value’. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity" as identified in on Section 7 of the Environment (Wales) Act 2016, and are beneficial to a wide range of biodiversity including bats, nesting birds, small mammals, lichens and fungi.

If it is not proposed for the tree or hedgerows to be removed given the proximity of development to surrounding trees and hedgerows, it is considered prudent to require information as to how these features of biodiversity importance will be protected during the construction period of works.

However, where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow – details of the location, length and species as well as an appropriate aftercare scheme will need to be identified – species used will need to be native and reflect the hedgerows present in the local area.

#### Landscape Planting Scheme

If it is proposed to provide landscaping as part of the potential development consideration should be given to the development of a native landscape planting scheme. It is recommended that details of any landscaping proposed are submitted in a detailed Landscape Planting Scheme including proposed species mixes, planting and aftercare schedules. A Landscaping Plan could be secured through a planning condition, however as further information has been requested the provisions of details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

#### Wildlife Sensitive Lighting Plan

Careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. This information could be secured through a planning condition, however the submission of a Wildlife Sensitive Lighting Plan with a planning application would avoid the need for a pre-commencement condition requiring this information. A Wildlife Sensitive Lighting Plan could be secured through a planning condition, however as further information has been requested the provisions of



details submitted at this stage would avoid the need for a pre-commencement condition requiring this information.

*Additional comments received on 01/11/2017:*

Thank you for consulting me with regards to the additional information submitted in relation to planning application P/2017/0620 which concerns the full application for the erection of 2 dwellings, formation of new access and parking, landscaping and all other associated works on Land adjacent to Moorhays, Rosgoch, Builth Wells.

The additional information has been submitted to address concerns raised by my colleague Ebonie Gethin-Thomas regarding insufficient information to assess potential impacts to great crested newts – European protected species.

Great crested newts had been identified as present in the local area – within 300m of the proposed development, following discussions with NRW it was agreed that a Reasonable Avoidance Method Statement should be provided to demonstrate that the proposed development would be undertaken in a manner that would not result in negative impacts to the local great crested newt population and to maintain the favourable conservation status of great crested newts in the local area.

A Reasonable Avoidance Method Statement In Respect Of Great Crested Newts Report produced by Celtic Energy dated October 2017 has been submitted to inform the application. I have reviewed the measures proposed and consider that they are in line with current guidelines, subject to adherence to the identified measures it is considered that the proposed development would not result in negative impacts to the local great crested newt population, in addition it has been identified that a new pond will be created in the south west corner of the field in which the proposed development is located – the provision of this pond will provide additional biodiversity benefit for great crested newts in the local area and other species. I recommend that adherence to the Method Statement is secured through an appropriately worded condition.

The submitted RAMS also include a Hedgerow Translocation Method Statement, having reviewed the proposed methodology it is considered that the method statement for the translocation and subsequent aftercare of the translocated hedgerow is appropriate. I recommend that implementation of this Method Statement is secured through an appropriately worded condition.

In the previous consultation response it was noted that careful consideration will need to be given to any external lighting of the proposed development, measures will need to be identified to minimise impacts to nocturnal wildlife commuting and foraging in the local area or woodland. Whilst a brief statement has been made regarding lighting in the RAMs document, I recommend that a lighting condition is still included to ensure lighting design for the site is appropriate and would not negatively impact biodiversity in the local area.

Therefore should you be minded to approve the application I recommend inclusion of the following conditions:

The development shall be carried out strictly in accordance with the measures identified in Sections 2.1 – 2.7 of the Reasonable Avoidance Method Statement In Respect Of Great

Crested Newts Report produced by Celtic Energy dated October 2017. The identified measures shall be adhered to and implemented in full unless otherwise agreed in writing by the LPA.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV6 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

Reason: To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

In addition I recommend inclusion of the following Informative:

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb an great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

#### PCC Land Drainage

The Lead Local Flood Authority would make the following comments on the application:

- No contours should be altered within designated C2 Flood Zone without prior permission from the Planning Authority
- No proposed surface water drainage details or layout drawing(s) have been submitted.
- The Flood and Water Management Act 2010 (Schedule 3), which has not been commenced, requires new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards. The Welsh Government has published interim national standards on an advisory basis until such time as it determines the most effective way of embedding SuDS principles in new developments in the longer term. This will enable designers, property developers, local authorities and other interested parties to both demonstrate that they have taken account of the Welsh Government's planning advice on Development and Flood Risk, Nature Conservation and Planning and to test the standards.
- These interim non statutory national standards and guidance can be downloaded from  
The Welsh Government's website at

<http://gov.wales/topics/environmentcountryside/epq/flooding/drainage/?lang=en>. They set out the hierarchy standard and minimum design criteria on the design, construction, operation and maintenance of SuDS serving new developments in urban or rural areas of more than one house or larger than 300m<sup>2</sup> floor space. They also contain links to additional supporting information relating to SuDS.

- The LLFA recommends that the surface water design for this development proposal follow and incorporate Welsh Government's SuDS design standards.
- Recommendation: No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

Reason: To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.

- If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

Reason: To ensure that no surface water runoff from the new driveway runs onto the highway.

With regard to access during flooding, as NRW state in their letter (attached) they recommend contacting PCC Emergency Planning for any comments.

I hope the above is helpful but should you have any further queries then please do not hesitate to contact me.

## NRW

*Comments received on 25/09/2017:*

Thank you for consulting Natural Resources Wales (NRW) about the above, which was received on 30/08/2017.

We recommend that you should only grant planning permission if you attach the following conditions. These conditions would address significant concerns that we have identified and we would not object provided you attach them to the planning permission.

## Summary of Conditions

Condition 1 Flood Risk – Built development is located outside the DAM Zone C2 to ensure the houses remain flood free for the lifetime of the development.

## Flood Risk

The application site is in the vicinity of zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15). Our flood map information.

The proposal is near the C2 Floodzone. To ensure that the built development will remain flood free for the lifetime of the development, and that no increase in flood risk is caused elsewhere due to displacement, we advise that the following condition will be appropriate:

Condition 1 Flood Risk – Built development is located outside the DAM Zone C2 to ensure the houses remain flood free for the lifetime of the development.

We note that the access track to the B4594 and part of the garden is located within flood zone C2. Your Authority should discuss matters of flood access and egress during a flood event with your Emergency Planning Team. The 'tolerable limits' as set out in table A1.15 of TAN15 should be taken into consideration.

The letter from Welsh Government to all Chief Planning Officers (<http://gov.wales/topics/planning/policy/dear-cpo-letters/flood-risk-and-insurancechanges/?lang=en>) and supporting summary document, clearly state that escape/evacuation routes should be "operational under all conditions" and this requirement should be a material consideration in the determination of this planning application.

Please be advised that Natural Resources Wales is not the appropriate body to advise on the appropriateness of flood evacuation measures or the safe access/egress aspect of a development proposal.

Please do not hesitate to contact us if you require further information or clarification on any of the above.

Our comments above only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: <https://naturalresources.wales/planning-and-development/planning-and-development/?lang=en>

We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance.

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

*Additional comments received on 21/11/2017:*

Thank you for sending through the amended plans for the plots at Land adj. to Moorhays, Rhosgoch.

Our previous response is still valid. The development has been re-arranged to place the buildings and parking areas outside of the DAM Zone C2 as shown in the submitted plan (99591.P102B).

## PCC Emergency Planning

### Introduction

01. Notification of the above planning application was received by the Emergency Planning Dept on 27 Oct 2017. On checking the documentation submitted on the Powys County Council (PCC) Planning Portal the Emergency Planning Dept would like to make a number of 'Generic' Observations (applicable to all sites) regarding access and evacuation at sites considered to be at risk of flood and 'Specific' Observations applicable to this site.

02. Information on the registration process for Flood Warning Direct and the completion of Community and Personal Flood Plans is also listed.

03. The PCC Emergency Planning Dept (together with other professional partners including Natural Resources Wales (NRW) and the Emergency Services) are always available to provide advice and guidance on Site or Property Flood Plans (i.e. Personal or Community Flood Management Plans) but will not 'Rubber Stamp' or 'Sanction' these plans, as this is the legal responsibility of the Site / Property Owner and not the Local Authority.

### Generic Observations

04. The following Generic Observations are made:

a. PCC Works with partners within the Dyfed Powys Local Resilience Forum, who has very robust contingency plans in place including Severe Weather, Evacuation & Shelter, and Humanitarian Assistance.

b. Whilst PCC is a Category 1 (Main) Responder (Civil Contingencies Act 2004 refers) the Authority acts in support of the Emergency Services and responds to their requests. PCC has no legal authority to instruct or advise people to evacuate their property.

c. The Police coordinate the emergency response and not the Local Authority.

d. During a severe weather incident (including flooding) PCC will concentrate its efforts in supporting those individuals who are unable to protect their properties (i.e. vulnerable clients, the elderly and infirm). Able bodied house / building owners are expected to make prior arrangements to protect their properties, including the purchase of commercially available flood defence products. Whilst sandbags (and ballast) will be provided by PCC where possible, the Authority may request that (able bodied) individuals collect these from local Highways Depots.

### Flood Warning Direct (FWD) Messages

05. Property holders who believe that their properties are likely to flood should register for free NRW 'Flood Warning Direct' messages. Further information on this and registration details can be found on the NRW website at the following link:

<https://naturalresources.wales/flooding/sign-up-to-receive-flood-warnings/?lang=en>

06. Please note that the (UK) Environment Agency provides FWD services to customers in Wales on behalf of NRW.

07. During heavy and persistent rainfall individuals should remain alert and not be fully reliant on the above warnings. Where safe to do so they should pro-actively monitor river and stream levels in their immediate area and take appropriate action (including evacuation).

#### Community & Personal Flood Plans

08. Any Community or private individual that believes they are at risk of flood are strongly encouraged to complete a 'Community Flood Plan' or 'Personal Flood Plan' and templates and guidance instructions can be found on the GOV.UK website:

<https://www.gov.uk/government/publications/community-flood-plan-template>

<https://www.gov.uk/government/publications/personal-flood-plan>

#### Specific Observations

09. The following Specific Observations are made:

a. Evacuation from a property is not always the best option and could endanger the occupants. It is sometimes (dependant on predicted flood depths) safer to move to a higher floor within a building (this proposed development is two storey) and wait for the floodwater to dissipate. This decision should be made after a Dynamic Risk Assessment has been undertaken. This information should be included within any Flood Warning and Evacuation Plan produced.

b. As no Flood Evacuation Plan has been lodged in the PCC Planning Portal, it must therefore be assumed that this was not a requirement of the Planning Application.

10. As always please contact me, or one of my Emergency Planning Officer colleagues, should you have any queries about the above.

#### CADW

Thank you for your letter of 8 June 2017 inviting our comments on the above planning application.

#### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development. Our assessment of the application is given below.

#### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority. It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

#### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

### Assessment

About 380m to the east south east of the proposed development scheduled monument RD144 Lane Farm Round Barrow is located on a local rise in the landscape. The development will be visible from the barrow, though views are currently restricted by a strip of plantation trees which encompasses it. As the two proposed dwellings, as viewed from the barrow, would lie immediately in front of a cluster of other residential buildings and adjacent to a primary school, overall change to the setting of the barrow will be minimal.

### Public Representations

Following display of a site notice on 20/06/2017 there have been two public representations received in objection to the proposed development. In summation the comments related to;

- A number of permissions for pending housing in Rhosgoch already.
- Roads are narrow in places.
- No infrastructure – medical facilities, buses, shops, pubs and mobile phone signal.
- Site is situated on green fields.
- Ample building land within the development area.
- An imbalance of building type – need for affordable housing for first time buyers.
- Houses of a similar type already for sale in the area.

### Planning History

None.



## **Principal Planning Constraints**

Flood Zone 2,3  
pipeline buffer

## **Principal Planning Policies**

### National Planning Policy

Planning Policy Wales (9th Edition, November 2016)  
Technical Advice Note 1 - Joint Housing Land Availability Study (2015)  
Technical Advice Note 2 - Planning and Affordable Housing (2006)  
Technical Advice Note 5 - Nature Conservation and Planning (2009)  
Technical Advice Note 11 – Noise (1997)  
Technical Advice Note 12 - Design (2016)  
Technical Advice Note 15 - Development in Flood Risk Areas (2004)  
Technical Advice Note 18 – Transport (2007)  
Technical Advice Note 20- Planning and the Welsh Language (2017)  
Technical Advice Note 23 - Economic Development (2014)  
Technical Advice Note 24 – The Historic Environment

### Local Planning Policies

- Unitary Development Plan (March 2010)

SP2 - Strategic Settlement Hierarchy  
SP3 - Natural, Historic and Built Environment  
SP4 - Economic and Employment Developments  
SP5 - Housing Development  
SP6 - Development and Transport  
SP9 – Local Community Services and Facilities  
SP14 - Development in Flood Risk Areas  
GP1 - Development Control  
GP2 – Planning Obligations  
GP3 - Design and Energy Conservation  
GP4 - Highway and Parking Requirements  
ENV1 - Agricultural Land  
ENV2 - Safeguarding the Landscape  
ENV3 - Safeguarding Biodiversity and Natural Habitats  
ENV5 – Nationally Important Sites  
ENV6 – Sites of Regional and Local Importance  
ENV7 – Protected Species  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
CS3 – Additional Demand for Community Facilities  
T2 - Traffic Management  
DC8 – Public Water Supply  
DC9 – Protection of Water Resources

DC11 – Non-Mains Sewerage Treatment  
DC13 - Surface Water Drainage  
DC14 - Flood Prevention Measures  
TR2 – Tourist Attractions and Development Areas

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

The site lies wholly outside of the settlement development boundary of Rhosgoch, as defined by the Powys Unitary Development Plan (2010), Inset Map R86. Outside of settlement boundaries, UDP Policy HP4 applies and states that 'outside settlement boundaries, proposals for new residential development will only be approved where they comply with UDP Policies HP6, HP8 or HP9'. Policy HP6 relates to rural enterprise dwellings, policy HP8 relates to affordable dwellings adjoining a settlement boundary and Policy HP9 relates to affordable dwellings within rural settlements. It is considered that the proposed development does not comply with UDP Policy HP6, HP8 or HP9. The proposed development is therefore not in accordance with the UDP and should be considered as a departure.

### Housing Land Supply

The departure is being justified by the applicant on the basis that Powys County Council does not have a 5 year housing land supply.

Paragraph 9.2.3 of Planning Policy Wales states that 'Local planning authorities must ensure that sufficient land is genuinely available or will become available to provide a 5 year supply of land for housing judged against the general objectives and the scale and location of development provided for in the development plan.'

The latest Powys Joint Housing Land Availability Study (JHLAS) 2016 states that there was 2.2 years supply of housing land in the Powys Local Planning Authority (LPA) area. Failure to have a 5-year housing land supply is an important material consideration that should be taken into account when determining this scheme. Technical Advice Note 1: Joint Housing Land Availability Studies (2015) states as follows:

"The housing land supply should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5

year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies”.

Whilst TAN 1 confirms that the need to increase housing land supply should be given considerable weight, it is emphasised that this is only where the development would otherwise comply with development plan and national planning policies.

### Sustainability

When providing additional housing it is important to consider whether the scheme can be considered to be within a sustainable development. This can relate to a wide range of matters including public transport provision and access to education, employment opportunities and other services.

Rhosgoch is defined as a small village in the UDP; as such the range of facilities available within the settlement is limited. A church and golf course (with restaurant) are situated within close proximity, as well as a defined area of amenity space within the centre of the village. The local road network links to the nearby settlement of Painscastle, approximately 1 mile to the south-west. The larger settlements of Clyro and Hay-on-Wye are accessible to the south-east via the local road network, where additional facilities can be found.

It is noted that Rhosgoch supports a number of existing dwellings, several of which are in close proximity to this application site, outside of the settlement development area; in light of this, on balance, it is considered that the site is located within a sustainable location.

### Design and layout

Guidance contained within UDP policy HP5 indicates that residential development will be permitted where the development is of an appropriate scale, form and design and general character, to reflect the overall character and appearance of the settlement and surrounding area.

It is considered that the layout of the proposed site is acceptable and is clearly shown to be able to accommodate two dwellings, whilst allowing the proposed landscaping to establish appropriate levels of privacy and screening, not only to each dwelling but also to the neighbouring residential dwelling to the east of the site.

The design of the dwellings, whilst in part-contemporary has been considered to incorporate a slight ‘agricultural’ style and as stated within the submission seeks to offer a contemporary rural vernacular. The use of materials as indicated are considered acceptable in this setting and are also considered to assist in assimilating the new dwellings into the edge of settlement location they would take-up.

In light of the above it is considered that the proposed design and layout of the two dwellings complies with relevant planning policy.

### Landscape and Visual Impact

UDP Policy ENV2 states that proposals should 'take account of the high quality of the landscape throughout Powys and be appropriate and sensitive to the character and surrounding landscape'. It goes on to state that proposals which are acceptable in principle should 'contain appropriate measures to ensure satisfactory integration into the landscape'.

Even though the site is outside of the settlement boundary it is adjacent to existing dwellings and as such is considered to be positioned at a location which adjoins open countryside and therefore the locality is considered to be sensitive to visual change.

In terms of landscaping the proposed plans include provision of new indigenous hedges at the east, south and west boundaries with an additional hedge dividing the two plots within the site. There is the requirement to remove a short section of established hedge at road side to accommodate vehicular access; however taking the provision of hedge into consideration it is clear that there will be a net overall gain in hedgerow provision at the site.

Comments from the PCC Ecologist noted that a section of the hedgerow to the northern boundary is proposed to be removed as well as new hedgerow planting proposed for the development site. The officer stated that the UDP policies ENV2 and ENV6 identify the need to protect or provide compensation for impacts to hedgerows and trees. UDP Policy ENV2 states that proposals which are acceptable in principal should seek to conserve native woodlands, trees and hedgerows. Policy ENV6 makes reference to Powys LBAP habitats and species which include hedgerows under the Linear Habitats Action Plan – 'Linear habitats are important to a wide variety of species as refuges, breeding and feeding sites and as links between habitats of high biodiversity value'. Hedgerows are also listed as a "habitat of principal importance for the purposes of conserving biodiversity".

Where impacts to hedgerows are identified an appropriate compensation strategy will be required, where possible translocation of the existing hedgerow should be considered, if this is not considered possible at this location replacement hedgerow planting would need to be identified.

Where it is necessary to remove any trees or hedgerows a Tree and Hedgerow Replacement and Protection Plan will need to be secured through an appropriately worded condition. This plan will need to identify appropriate compensation planting for the loss of any trees or hedgerow; details of the location, length and species as well as an appropriate aftercare scheme will need to be identified; species used will need to be native and reflect the hedgerows present in the local area.

Whilst the proposal would result in a visual change in comparison to the current use, taking into account the sites location outside of the settlement and the intended provision of additional hedgerows, it is considered that the proposal is acceptable and in accordance with Policy ENV2 of the UDP.

#### Highway Safety

UDP policy GP4 confirms that in the interests of highway safety, all development proposals that generate or involve traffic must be provided with an adequate means of access including visibility, parking and turning facilities.

The proposed development will be accessed from the B4594.

Officers from PCC highways have considered the proposed development and have raised no concerns. The officer did however recommend the provision of a series of conditions to be included with any consent given.

In light of the above and subject to the inclusion of the recommended conditions it is considered that the proposed development fundamentally complies with policy GP4 of the Powys Unitary Development Plan (2010).

#### Amenities enjoyed by occupiers of neighbouring properties

In considering the amenities enjoyed by the occupiers of neighbouring properties consideration has been given to the Powys Residential Design Guide (October 2004).

It is considered that the proposed development will have minimal adverse impacts upon amenities of nearby dwellings in terms of impacts upon loss of privacy or potential impacts upon loss of daylight. The closest neighbouring dwelling, Moorhays is located approximately 26 metres to the east. The closest proposed dwelling does not have any windows on its gable end which could be considered to afford views to the dwelling known as Moorhays. The two proposed dwellings are to be located approximately 8.6 metres apart and again do not front each other along the principle elevations and again are to be screened in part by a proposed hedgerow.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

#### Foul Drainage

PCC Environmental Health and Welsh Water have provided comments in relation to foul drainage at the site.

Welsh Water indicated that as the applicant intends utilising a private treatment works they would advise that the applicant contacts Natural Resources Wales who may have an input in the regulation of this method of drainage disposal. This will be included as an informative with any decision notice issued.

PCC Environmental Health commented in relation to the porosity test holes and they confirmed that they were able to inspect them adequately and that they were acceptable. Officers confirmed that the drainage system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system. As such this will be included as an informative with any decision notice issued.

#### Flood Zone

Comments have been received from NRW and PCC Land Drainage in this regard.

NRW noted that the application site is in the vicinity of zone C2, as defined by the Development Advice Map (DAM) referred to in Technical Advice Note 15: Development and Flood Risk (TAN15). In an effort to ensure that the built development will remain flood free for the lifetime of the development, and that no increase in flood risk is caused elsewhere due to

displacement, NRW advise that the inclusion of a suitably worded condition would be appropriate. In this instance and following receipt of additional plans which highlight all built form being located outside of the C2 floodzone it is considered that the recommended condition would not be considered to be appropriate or necessary in light of the amended plans.

NRW also noted that the access road of the B4594 and part of the garden area is located within flood zone C2. NRW officers recommended that a discussion with the PCC Emergency Planning Team take place to discuss matters of flood access and egress during a flood event. They indicated that 'tolerable limits' as set out in table A1.15 of TAN15 should be taken into consideration. As such contact was made with officers within Emergency Planning where a number of observations were made. The comments received covered a number of generic observations in respect of emergency planning as well as more specific advice to cover potential flood events. Information provided by the officers will be included as an informative with any decision notice issued.

PCC Land Drainage officers commented by indicating that no contours should be altered within designated C2 Flood Zone without prior permission from the Planning Authority.

The officer noted that the Flood and Water Management Act 2010 (Schedule 3), which has not been commenced, requires new developments to include Sustainable Drainage Systems (SuDS) features that comply with national standards. The Welsh Government has published interim national standards on an advisory basis until such time as it determines the most effective way of embedding SuDS principles in new developments in the longer term. This will enable designers, property developers, local authorities and other interested parties to both demonstrate that they have taken account of the Welsh Government's planning advice on Development and Flood Risk, Nature Conservation and Planning and to test the standards.

The officer therefore recommended that the surface water design for this development proposal follow and incorporate Welsh Government's SuDS design standards.

The officer noted that no proposed surface water drainage details have been submitted and as such they would require the inclusion of a suitably worded condition to ensure that this element is given due regard and that proposed systems are compliant with established requirements.

The officer also raised awareness in relation to potential non-permeable surfacing being used within the site and as such recommended the inclusion of a further condition to safeguard against any potential adverse impacts in this regard.

In light of the above and subject to the inclusion of the recommended conditions and informative it is considered that the proposed development fundamentally complies with relevant planning policy.

### Biodiversity

The PCC Ecologist provided comments in regard to the details as submitted.

The Officer reviewed the proposed plans, aerial images and site photographs of the proposed site and surrounding habitat of the development, as well as local records of

protected and priority species and designated sites within 500m of the proposed development. The data search identified 23 records of protected and priority species within 500m of the proposed development. The data search identified records of great crested newts in the surrounding area (within 200m). The Officer noted that there are no statutory or non-statutory designated sites present within 500m of the proposed development.

The officer noted from the aerial images that there are ponds located to the south of the proposed development site, the closest being approximately 220m from the site of the proposed development. Given the identification of great crested newt records in the surrounding areas and the proximity to the ponds it was considered that the proposed development had potential to impact great crested newts, via the loss of potential terrestrial habitat for this species or as the result of creation of a barrier to their dispersal to surrounding suitable habitat.

The Officer went on to state that given the proposed development will involve alterations to the surrounding habitat via the removal of a section of hedgerow, consideration should be given to the potential of the site to be used as terrestrial habitat by great crested newts which are a European protected species. The Officer considered therefore that there is insufficient information with regard to potential impacts to great crested newts, a European protected species, to determine this application. Further information was requested to be submitted prior to determination of the application.

Following the provision of additional information PCC ecology were able to provide further comments.

The Officer indicated that a Reasonable Avoidance Method Statement (RAMS) in respect of Great Crested Newts Report produced by Celtic Energy dated October 2017 had been submitted for further consideration. The Officer confirmed that they had reviewed the measures proposed and considered that they were in line with current guidelines, subject to adherence to the identified measures it was considered that the proposed development would not result in negative impacts to the local great crested newt population.

In addition, the Officer identified that a new pond will be created in the south west corner of the field in which the proposed development is located; the Officer considered that the provision of this pond will provide additional biodiversity benefit for great crested newts in the local area and other species. The officer recommended that adherence to the Method Statement is secured through an appropriately worded condition.

The Officer also noted that the submitted RAMS also included a Hedgerow Translocation Method Statement; having reviewed the proposed methodology the officer considered that the method statement for the translocation and subsequent aftercare of the translocated hedgerow is appropriate. The officer recommend that implementation of this Method Statement is secured through an appropriately worded condition.

The officer also noted that in the previous consultation response it was indicated that careful consideration would need to be given to any external lighting of the proposed development. Whilst a brief statement has been made regarding lighting in the RAMs document, the officer recommended that a lighting condition still be included to ensure lighting design for the site is appropriate and would not negatively impact biodiversity in the local area.

In light of the above and subject to the inclusion of the recommended conditions it is considered that the proposed development fundamentally complies with relevant planning policy.

### CADW

Officers from CADW noted that approximately 380m to the south east of the proposed development scheduled monument RD144 Lane Farm Round Barrow is located on a local rise in the landscape. The officer noted that the development will be visible from the barrow; however any views are currently restricted by a strip of plantation trees which encompasses it. The officer went on to state that the two proposed dwellings, as viewed from the barrow, would lie immediately in front of a cluster of other residential buildings and adjacent to a primary school (now closed), therefore overall change to the setting of the barrow will be minimal.

In light of this the officer raised no objections to the impact of the proposed development; and as such it is considered that the proposed development fundamentally complies with relevant planning policy.

### Public Representations

It is considered that a number of the concerns raised in objection by the public representations have been addressed through the body of this report, however it is noted that the following points still require appropriate consideration and comment.

With regard to pending housing within the local area, further information is in the process of being prepared and will be reported via an update report.

The condition and nature of local highways are a factor for the PCC Highways Authority to take into consideration with any planning application. In this case the officer has made representation and offered no concerns in this regard.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application.

Policy GP5 indicates certain settlements where the Welsh Language has been identified as being important to the social, cultural and community fabric. Rhosgoch is not identified as being one of those settlements under GP5.

From the 2011 census for the Painscastle community area the percentage of those with some knowledge of Welsh was indicated to be 12.35%, this is in contrast to the 2001 census data which indicated that 9.5% of the population were Welsh speakers.

Given the scale of the proposed development it is considered that the proposal will not have an unacceptable adverse impact upon Welsh language and culture.



## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

## **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal, on balance, broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

## **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the plans stamped as approved on XXXXXX (drawing no's: 99591.P11, 99591.P21A, 99591.P100C, 99591.P101C, 99591.P102B and 99591.P110A).
3. Prior to the occupation of the dwelling any entrance gates shall be set back at least 10 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
4. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 5 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
5. The centre line of the first 5.5 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
6. Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 120 metres distant in a westerly direction and 85 metres distant in an easterly direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
7. Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 5.5 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
8. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 3 cars per dwelling together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
9. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.35 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles

serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

10. The width of the access carriageway, constructed as Condition 7 above, shall be not less than 5 metres for a minimum distance of 5.5 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

11. Prior to the occupation of the dwelling the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 5.5 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence.

12. Upon formation of the visibility splays as detailed in Condition 6 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

13. No storm water drainage from the site shall be allowed to discharge onto the county highway.

14. No development shall commence until a scheme for the surface water drainage of the site has been submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before any dwellings are occupied.

15. If non permeable surfacing is used on the new driveway and parking area and/or the driveway slopes toward the highway, the applicant should submit for approval a drainage system to intercept water prior to flowing on to the public highway.

16. Notwithstanding the provisions of Article 3 and Part 1 of the second Schedule to the Town and Country Planning (General Permitted Development) (Amendment) (Wales) 2013, (or any Order revoking and re-enacting that Order), no development as specified in Part 1, Classes A,B,C,D and E within the curtilage of the unit hereby approved shall be carried out without planning permission.

17. The development shall be carried out strictly in accordance with the measures identified in Sections 2.1 – 2.7 of the Reasonable Avoidance Method Statement In Respect Of Great Crested Newts Report produced by Celtic Energy dated October 2017. The identified measures shall be adhered to and implemented in full.

18. Prior to the commencement of the development a Landscaping and Management Plan shall be submitted to and agreed with the Local Planning Authority and shall be implemented in the first planting season of the following occupation of the development. The Plan shall include the use of native species, details of the planting specification – the species, sizes and planting densities – and a timetable for implementation and future management to ensure good establishment and long-term retention

19. No external lighting shall be installed unless a detailed external lighting design scheme has been submitted to and approved in writing by the Local Planning Authority. The external lighting scheme shall identify measures to avoid impacts on nocturnal wildlife. The development shall be carried out in accordance with the approved details.

## Reasons

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
3. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
4. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
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10. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
11. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
12. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
13. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
14. To ensure that the proposed drainage systems for the site follow best practice sustainable drainage designs and are fully compliant with regulations and are of robust design.
15. To ensure that no surface water runoff from the new driveway runs onto the highway.
16. In order to control further development which has the potential to have adverse effects on privacy and/or amenity in contradiction to policy GP1 of the Powys Unitary Development Plan.

17. To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3, ENV6 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

18. To comply with Powys County Council's UDP Policies SP3 and ENV2 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

19. To comply with Powys County Council's UDP Policies SP3, ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and Part 1 Section 6 of the Environment (Wales) Act 2016.

## **Informative Notes**

### NRW

The applicant should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

### Foul Drainage

The drainage system must comply with document H2 of the Building Regulations relating to design and installation of the foul drainage system.

### Biodiversity

Birds - Wildlife and Countryside Act 1981 (as amended)

The site of the proposed tree works is considered to have potential to support nesting birds during the breeding season. All nesting birds, their nests, eggs and young are protected under the Wildlife and Countryside Act 1981 (as amended).

It is therefore an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Great Crested Newts – Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

Great Crested Newts are known to be present in the vicinity of the proposed development site. The great crested newt is fully protected under schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 (as amended).

It is therefore an offence to:

- Deliberately capture, injure or kill a great crested newt;
- Deliberately disturb a great crested newt in such a way as to be likely to significantly affect the local distribution, abundance or the ability of any significant group of great crested newts to survive, breed, rear or nurture their young;
- Damage or destroy a great crested newt breeding site or resting place;
- Intentionally or recklessly disturb a great crested newt; or
- Intentionally or recklessly obstruct access to a breeding site or resting place.

If a great crested newt is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. This advice may include that a European protected species licence is sought.

### Emergency planning

#### Flood Warning Direct (FWD) Messages

Property holders who believe that their properties are likely to flood should register for free NRW 'Flood Warning Direct' messages. Further information on this and registration details can be found on the NRW website at the following link:

<https://naturalresources.wales/flooding/sign-up-to-receive-flood-warnings/?lang=en>

Please note that the (UK) Environment Agency provides FWD services to customers in Wales on behalf of NRW.

During heavy and persistent rainfall individuals should remain alert and not be fully reliant on the above warnings. Where safe to do so they should pro-actively monitor river and stream levels in their immediate area and take appropriate action (including evacuation).

#### Community & Personal Flood Plans

Any Community or private individual that believes they are at risk of flood are strongly encouraged to complete a 'Community Flood Plan' or 'Personal Flood Plan' and templates and guidance instructions can be found on the GOV.UK website:

<https://www.gov.uk/government/publications/community-flood-plan-template>

<https://www.gov.uk/government/publications/personal-flood-plan>

### Specific Observations

The following Specific Observations are made:

a. Evacuation from a property is not always the best option and could endanger the occupants. It is sometimes (dependant on predicted flood depths) safer to move to a higher floor within a building and wait for the floodwater to dissipate. This decision should be made after a Dynamic Risk Assessment has been undertaken. This information should be included within any Flood Warning and Evacuation Plan produced.

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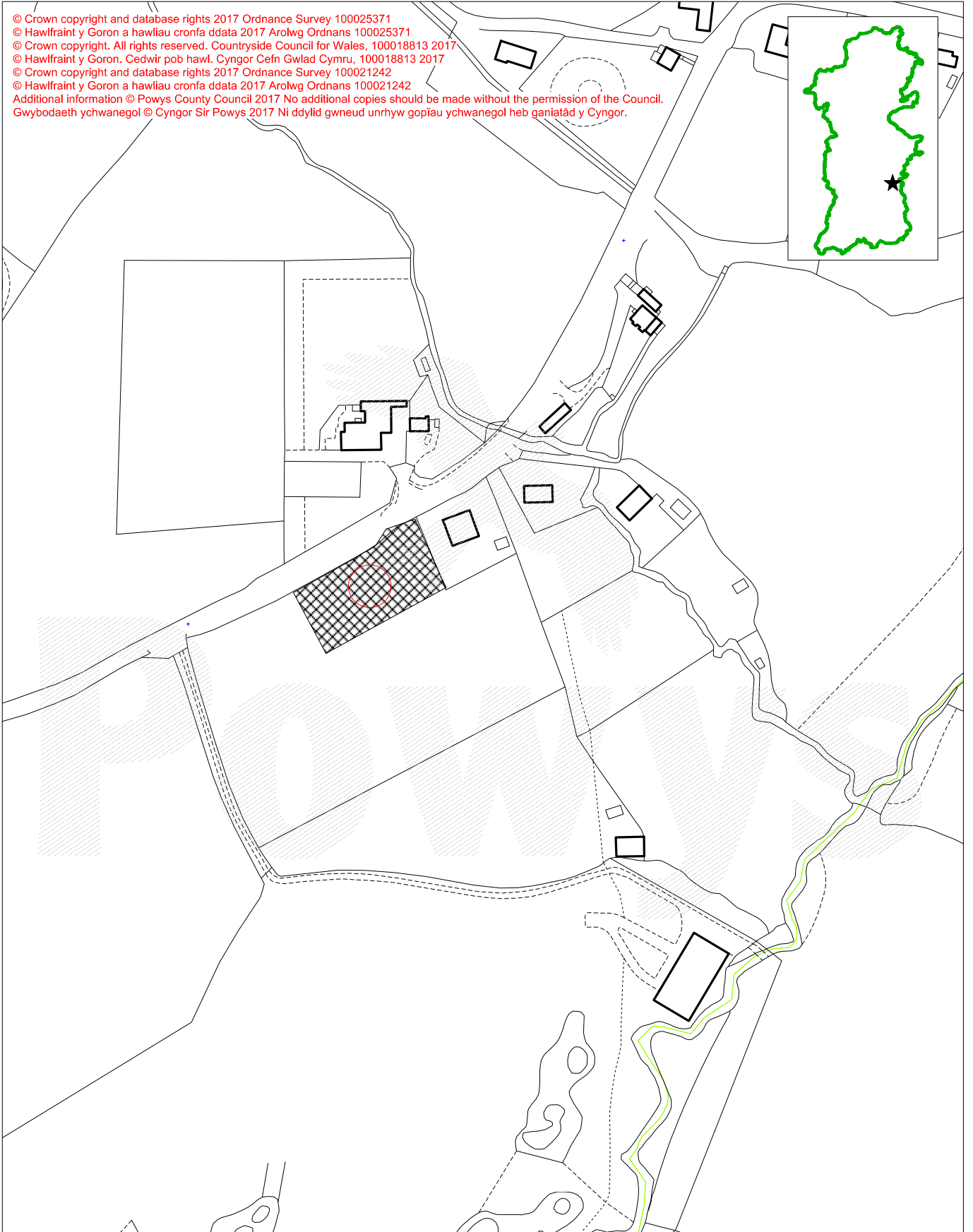
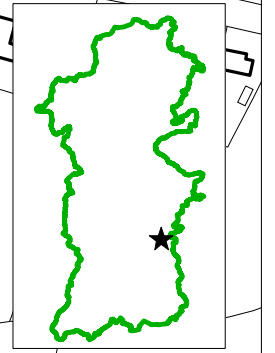
Case Officer: Kevin Straw - Planning Officer

Tel: 01597 827092 E-mail:kevin.straw@powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# 5.12

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1184	<b>Grid Ref:</b>	321547.42, 298114.85
<b>Community Council:</b>	Montgomery	<b>Valid Date:</b>	<b>Officer:</b> 13/10/2017 Bryn Pryce
<b>Applicant:</b>	Miss H Broxton, Edderton Hall, Forden, Welshpool, Powys SY21 8RZ		
<b>Location:</b>	Land near Tyffos Hendomen, Montgomery, Powys SY15 6EZ		
<b>Proposal:</b>	Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works		
<b>Application Type:</b>	Application for Outline Planning Permission		

### The reason for Committee determination

The application is to be determined by planning committee as it represents a departure from the development plan.

### Site Location and Description

This site is located off the U2677 unclassified highway within the rural settlement of Hendomen. The site is accessed via an existing private road which currently serve four other dwellings. The existing site is currently laid to grass and is located adjacent to the existing cul-de-sac access road. The site is bound by the access road to the south, existing dwelling to the east, unclassified highway to the west and agricultural land to the north.

This application seeks outline consent for the erection of a single open market dwelling with a detached garage and all associated works. The application considers the principle of residential development on the site and access to it with all other matters reserved for future consideration. An indicative layout for the site and indicative scale has been provided with the application. The site is located directly adjacent to the main cluster of dwellings that for the rural settlement of Hendomen.

### Consultee Response

#### Montgomery TC

No comments received by Development Management at the time of writing this report.

#### Highways Dept north

*Correspondence received 31<sup>st</sup> October 2017*

The County Council as Highway Authority for the County Unclassified Highway, U2077

Wish the following recommendations/Observations be applied

## Recommendations/Observations

Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.

## Building Control

*Correspondence received 13<sup>th</sup> November 2017*

Please be aware that the proposed development will require Building Regulations approval.

## Wales & West Utilities

*Correspondence received 20<sup>th</sup> October 2017*

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

## STW

*Correspondence received 8<sup>th</sup> November 2017*

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

*Correspondence received 20<sup>th</sup> October 2017*

Re: Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works.

### **Foul drainage**

I am satisfied that the existing septic tank and soakaway system has the required capacity to accommodate this proposed development. I therefore have no objection to the application.

PCC Ecologist

Correspondence received 21<sup>st</sup> November 2017

<b>Planning Application Reference</b>	P/2017/1184
<b>Project Name / Description</b>	for Outline application (with some matters reserved) for erection of a dwelling, detached garage and all associated works at , Land near Tyffos Hendomen, , Montgomery, Powys.
<b>Consultation Deadline</b>	09/11/2017

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Ecological Topic		Observations
EIA Screening Opinion needed?	No	Whilst the proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017, it does not exceed the applicable thresholds and criteria specified in the Regulations.
Ecological Information included with application?	No	No ecological information has been submitted with the application. These observations are based on an interpretation of available aerial and street imagery, the submitted plans and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.  The proposed development is sited on a vacant building plot on an existing cul-de-sac within the rural settlement of Hendomen. It appears from aerial and street imagery that there is a hedge to the rear of the proposed development plot with improved grassland beyond. Directly adjacent to the east and south of the plot are residential properties, whilst there is a country lane bounding the western boundary of the site.
	European Species <input type="checkbox"/>	The only European species recorded within 1km of the proposed work is otters, with the closest record being within 800m from the proposed development site. Due to the lack of otter habitat within close proximity of the proposed work, it is not considered likely that this species would be affected.

Protected Species & Habitats <sup>1</sup>		<p>Although un-recorded within 1km of the proposed development, bats are likely to be present and active within the locality i.e. roosts in nearby buildings, and using adjacent hedgerows for commuting as well as foraging. If there is lighting proposed as part of the development, careful consideration should be given to maintaining a dark corridor around boundary features, such as the hedge to the rear of the plot, so that boundary features are maintained as viable commuting and foraging features.</p>
	UK Species <input checked="" type="checkbox"/>	<p>There are historical records of birds within 1km of the proposed work including kingfisher (700m), Red kite (400m), House sparrow (70m) and Bullfinch (700m). Other records of UK species include Badgers, located 600m from the proposed development.</p> <p>It appears from aerial and street imagery that there is vegetation on the site of the proposal. Therefore it is recommend that any vegetation clearance works are timed to avoid the bird nesting season (generally March to August inclusive) and if work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>From the imagery available it appears that the site could support population of common reptiles species such as the slow worm and common lizard. Although, there are no historical records of this species within 1km of the proposed development. It is recommended that reasonable avoidance measures, including ecological supervision, are employed to prevent potential harm to reptiles during any vegetation clearance required to facilitate the proposed development. Suitable mitigation should also be provided to offset any losses of reptile habitat and shown in a proposed landscape design drawing. Such measures should be agreed with the LPA prior to commencement of works.</p>

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	LBAP Species & Habitats <input type="checkbox"/>	Please see comments above.
Protected Sites	International Sites (within 1km) <input type="checkbox"/>	None within search area
	National Sites (within 1km) <input type="checkbox"/>	None within search area
	Local Sites (within 500m) <input type="checkbox"/>	None within search area
Invasive Non-Native Species	Unknown	No ecological information has been supplied with the application



<p><b>Recommendations</b></p>	<p>It is recommended that any site clearance and demolition work is timed to avoid the bird nesting season (generally March to August inclusive). If work that could destroy bird nesting habitat is to proceed in the bird nesting season, a suitably-experienced ecologist should check for active bird nests immediately in advance of the works commencing.</p> <p>It is recommended that reasonable avoidance measures applied during site clearance to prevent impacts upon the local reptile population (discussed above) are extended to consider these species and other small animals.</p> <p>As enhancement measures it is recommended that a variety of bird and bat boxes are fixed to the proposed dwellings or garage buildings.</p>
<p>Further information required prior to determination of application</p>	
<p><b>Recommended Conditions</b></p>	<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>Prior to commencement of development, a Species List for the Landscape Planting, to include position of the translocated hedgerow, shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.</p>

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*Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

*Prior to commencement of development, a Biodiversity Enhancement Plan to include details of the bird nest and bat boxes shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

*Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written LPA approval.*

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

#### **Informatives**

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird

	<ul style="list-style-type: none"> <li>• intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built</li> <li>• intentionally take or destroy the egg of any wild bird</li> <li>• intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.</li> </ul> <p>The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.</p> <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.</p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b> All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage ENV 3: Safeguard Biodiversity and Natural Habitats ENV 7: Protected Species</p>

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<b>Document Author</b>	Eifion Glyn Davies	<b>Approved by</b>	Rhydian Roberts
<b>Version</b>	1	<b>Approved Date</b>	21/11/2017

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## CADW

*Correspondence received 2<sup>nd</sup> November 2017*

Thank you for your letter of 19 October 2017 inviting our comments on the above planning application.

### Advice

Having carefully considered the information provided with this planning application, we have no objections to the impact of the proposed development on the scheduled monuments MG013 Hen Domen Mound & Bailey Castle and MG170 Hen Domen Pre- Conquest Fields. Our assessment of the application is given below.

### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), Technical Advice Notes and circular guidance.

PPW (Chapter 6 – The Historic Environment) explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. Technical Advice Note 24: The Historic Environment elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of remains.

PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park

or garden or its setting should be a material consideration in the determination of a planning application.

## Assessment

The application area is located some 97m east of scheduled monument MG013 Hen Domen Mound & Bailey Castle and 86m east of scheduled monument MG170 Hen Domen Pre-Conquest Fields. These monuments consist of the well preserved remains of a medieval earthwork castle built over the remains of a Pre-Norman field system.

The proposed development will be clearly visible from the scheduled monument but will be seen as part of the existing development along Pen y Ffos. It will increase the amount of modern development constructed close to the scheduled monument but in our opinion the proposed development will cause slight but not significant damage to the settings of scheduled monuments MG013 and MG170.

## Cllr Stephen Hayes

*Correspondence received 23<sup>rd</sup> October 2017*

So far as I can see this application is in line with previous outline permission and I have no matters to raise.

## **Representations**

A public site notice was displayed at the site for a period of 21 days. No third party representations have been received by Development Management at the time of writing this report.

## **Planning History**

M/7829 – Demolition of old barna and erection of a new private goods vehicle repair garage – Conditional Consent

M/5055 – Private Garage/workshop – Conditional Consent

M/1996/0540 – Erection of 4 dwellings (outline) – Outline Consent

M/1997/0876 – Erection of a dwellinghouse with garage and construction of new vehicular access (Reserved Matters) - Approved

M/1998/0415 – Erection of 4 semi-detached dwelling houses (outline) - Withdrawn

## **Principal Planning Constraints**

Historic Landscapes Register Outstanding

## **Principal Planning Policies**

### National planning policy

Planning Policy Wales (9<sup>th</sup> edition, 2016)  
Technical Advice Note (TAN) 1: Joint Housing Land Availability Studies (2015)  
Technical Advice Note (TAN) 5: Nature, Conservation and Planning (2009)  
Technical Advice Note (TAN) 12: Design (2016)  
Technical Advice Note (TAN) 23: Economic Development (2014)  
Technical Advice Note 24 – The Historic Environment (2017)

Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

### Local planning policies

Powys Unitary Development Plan 2010

SP2 – Strategic Settlement Hierarchy  
SP4 – Economic and Employment Developments  
SP5 – Housing Developments  
SP6 – Development and Transport  
SP12 – Energy Conservation and Generation  
GP1 – Development Control  
GP3 – Design and Energy Conservation  
GP4 – Highways and Parking Requirements  
ENV2 – Safeguarding the Landscape  
ENV3 – Safeguarding Biodiversity and Natural Habitats  
ENV7 – Protected Species  
ENV17 – Ancient Monuments and Archaeological Sites  
HP3 - Housing Land Availability  
HP4 - Settlement Development Boundaries and Capacities  
HP5 - Residential Development  
HP6 - Dwellings in the Open Countryside  
HP9 - Affordable Housing in Rural Settlements  
HP14 – Sustainable Housing  
DC1 – Access by Disabled Persons  
DC3 – External Lighting  
DC11 – Non-mains Sewage Treatment  
DC13 – Surface Water Drainage  
TR2 – Tourist Attractions

Powys Residential Design Guide 2004

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Principle of Development

This application site lies within the settlement of Hendomen which is classified in the Powys Unitary Development Plan 2010 as a rural settlement. The site is accessed off the U2667 unclassified highway. The proposal is for a single open market dwelling and therefore the proposed development represents a departure from the adopted Unitary Development Plan.

### Housing Land Supply

Planning policy (TAN1 and UDP HP3) states that the Council needs to have a five year supply of land available for housing. The Powys Joint Housing Land Availability Study (2016) concludes that there is 2.2 years of housing supply.

Housing supply is a material consideration that should be given considerable weight in the determination of this application. TAN 1 states:

*'The housing land supply figure should also be treated as a material consideration in determining planning applications for housing. Where the current study shows a land supply below the 5-year requirement or where the local planning authority has been unable to undertake a study, the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies'.*

### Sustainability

In considering a departure from the Powys Unitary Development plan policies consideration must be given to must consider the location of the proposed development in terms of the sustainability of the development. Account should be given to the range of services and facilities available within close proximity to the site.

Hendomen is defined in the UDP as a rural settlement with very limited services and facilities. However, the rural settlement is located within close driving distance (approximately 1.5 miles) to the Key Settlement of Montgomery. Montgomery has a full range of services and facilities to include a range of shops, community centre, doctors, dentist a school and more. The UDP inset map description for Montgomery references the nearby rural settlement of Hendomen and states that the settlement would be suitable for affordable housing adjacent



to the existing built form. Given the current lack of housing land supply it is considered appropriate in this instance to consider the rural settlement of Hendomen for a single open market dwelling. Officers consider that in this case the proposed site is considered to be a sustainable location for a single open market dwelling with access to a range of services and facilities in Montgomery that is well associated with the existing built up settlement form.

In light of the above, officers consider that the rural settlement is considered to be a sustainable location for a single open market dwelling.

### Scale, Design and Appearance

Policy GP3 of the Powys Unitary Development Plan seeks to ensure that development proposals are of an appropriate design, scale, layout and of materials that shall complement or where possible enhance the character of the surrounding area.

Whilst scale, appearance, layout and landscaping are reserved matters not to be considered as part of this application process, the applicant has provided an indicative layout for the site. The indicative layout submitted with the application shows a single open market dwelling with 3/4 bedrooms with a detached garage. The design and access statement indicates that the dwelling will be between 8-16 metres in length, 7-12 metres in width and between 6.1 – 7.5 metres in height to the ridge.

No indicative details of design of the dwelling are given at this stage but it is a matter to be considered at any future reserved matters application stage. The design and access statement or planning application form doesn't give any information in terms of proposed materials at this stage.

Although Officers acknowledge that matters relating to appearance, layout and scale have been reserved for future consideration, on the basis of the plans provided, it is considered that the application site is capable of accommodating a single dwelling comfortably without unacceptably adversely affecting the character and appearance of the area or amenities enjoyed by occupants of neighbouring properties compliant with UDP policies SP5, GP1, GP3, ENV2 and HP5.

### Landscape and Visual Impact

Policy ENV2 of the Powys Unitary Development Plan seeks to ensure that proposed development will not have an unacceptable adverse impact upon the Powys Landscape. Development proposals should be design in a way to be sensitive to the character and appearance of the surrounding area and landscape.

The proposed site is located adjacent to existing dwellings forming the rural settlement of Hendomen. It is considered that the siting of the proposed dwelling is acceptable in the proposed location. Although landscaping is not considered as part of this application process it is considered that the proposed site is well integrated within the existing rural settlement and would not have an unacceptable adverse visual impact upon the character and appearance of the surrounding area.

In light of the above, it is considered that the proposed development complies with policy ENV2 of the Powys Unitary Development Plan 2010.

### Scheduled Ancient Monument

The proposed site is located approximately 95 metres west of the scheduled ancient monument known as Hen Domen Mound & Bailey Castle (MG013) and approximately 85 metres west of the scheduled ancient monument known as Hen Domen Pre-Conquest Fields (MG170). As part of this application process CADW have been consulted on the proposal due to the close proximity to the monuments.

A response has been received from CADW offering no objections to the proposed development stating that although the development would be clearly visible from the monuments it would be seen as part of the existing built development of the existing rural settlement. CADW's conclusion is that the proposal would result in a slight but not significant damage to the setting of the two scheduled ancient monuments.

In light of the above, officers consider that the proposed development fundamentally complies with policy ENV17 of the Powys Unitary Development Plan 2010.

### Highways Safety and Movement

UDP policy GP4 indicates that planning permission will be dependent upon adequate provision for access including visibility, turning and parking.

As part of this application process the highways authority have been consulted and no objections have been raised subject to the inclusion of the recommended conditions upon any grant of consent. Officers are satisfied that subject to the conditions as suggested that the proposed development is considered to have an acceptable access.

In light of the highways officers comments it is considered that the proposed dwellings fundamentally comply with Policy GP4 of the Powys Unitary Development Plan 2010.

### Drainage

Policy DC13 of the Powys Unitary Development plan seeks to ensure that development proposals should provide adequate provisions for land drainage and surface water disposal. Development should not give rise to unacceptable on or off site flooding. Policy DC11 seeks to ensure that the adequate provision for foul sewerage can be provided on site via the public foul sewerage system where possible or via a private sewage treatment system.

As part of this application process the council's Environmental Health Officers have been consulted who have raised no objection to the scheme as it is to be served by an existing septic tank facility and drainage field that currently serves an existing dwelling adjacent to the site. Environmental health officers are satisfied that the existing system has capacity to support the additional dwelling. No objections have been received from Severn Trent in respect of the proposed development.

Officers consider that the proposed development fundamentally complies with policy DC11 and DC13 of the Powys Unitary Development Plan 2010 in respect of foul and surface water drainage.

## Ecology and Biodiversity

As part of this application process our county ecologist has been consulted and has provided comments on the application. No objections have been raised by the ecologist to the proposed development subject to the inclusion of the suggested conditions. Officers consider that not all recommended conditions are appropriate to be attached to any grant of consent at this outline stage as some of the matters relate to landscaping which is to be considered at any future reserved matters application stage.

In light of the above and comments received, subject to the suggested conditions officers consider that the proposed development fundamentally complies with Policy ENV7 of the Powys Unitary Development Plan 2010.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

## Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **Recommendation**

Having carefully considered the proposed development, Officers consider that the proposal broadly complies with planning policy. Whilst a departure from the development plan, in this instance, the provision of housing is considered to outweigh the plan and therefore justifies the grant of consent as an exception to normal housing policies. The recommendation is therefore one of conditional approval.

#### Conditions:

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development shall begin either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development shall be carried out strictly in accordance with the plans stamped as received on 13th October 2017 (drawing no's: --/17/01, --/17/02, --/17/03).
5. Before any other development commences provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.
6. Prior to the occupation of the dwelling, provision shall be made within the curtilage of the site for the parking of not less than 1 car per bedroom, to a maximum of 3, excluding any garage space provided. The parking areas shall be retained for their designated use in perpetuity.

7. The area of each private drive and any turning area is to be metalled and surfaced in bituminous macadam, concrete or block pavements, prior to the occupation of that dwelling and retained for as long as the development remains in existence.
8. Prior to commencement of development, a reptile and small animal Reasonable Avoidance Method Statement shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
9. Prior to commencement of development a lighting design scheme to take any impacts on nocturnal wildlife into consideration shall be submitted for written Local Planning Authority approval.

### **Reasons**

1. To enable the Local Planning Authority to exercise proper control over the development in accordance with Section 92 of the Town and Country Planning Act 1990.
2. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
3. Required to be imposed by Section 92 of the Town and Country Planning Act 1990.
4. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.
5. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
6. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
7. In the interests of highway safety and in accordance with the provisions of Powys UDP Policy GP1 and GP4.
8. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.
9. To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

### **Informative Notes**

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

#### Reptiles - Wildlife & Countryside Act 1981 (as amended)

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

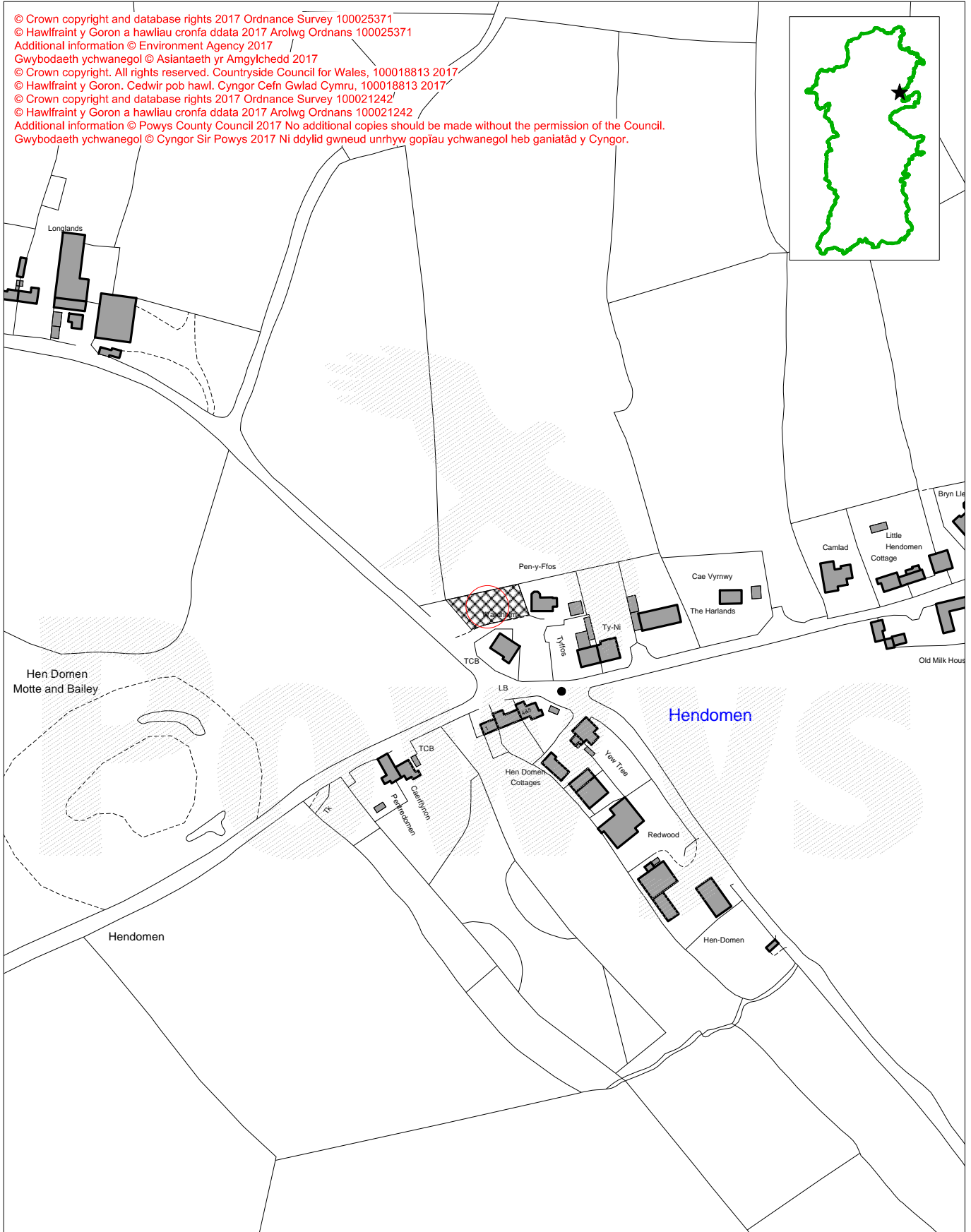
The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury.

All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

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Case Officer: Bryn Pryce- Planning Officer  
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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



# 5.13

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1071	<b>Grid Ref:</b>	309311.61 306337.57
<b>Community Council:</b>	Llanfair C	<b>Valid Date:</b>	<b>Officer:</b> 18/09/2017 Tamsin Law
<b>Applicant:</b>	S.M. & G.D. Jones, Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU		
<b>Location:</b>	Land at Rhiwhiriaeth Isaf, Llanfair Caereinion, Welshpool, Powys, SY21 0DU		
<b>Proposal:</b>	Full: Erection of a poultry unit, silos, formation of vehicular access and roadway together with all associated works		
<b>Application Type:</b>	Application for Full Planning Permission		

### The reason for Committee determination

The applicant is a County Councillor

### Site Location and Description

The application seeks full planning permission for the construction of a single poultry unit and associated works to house 16,000 for the production of free range eggs.

The application site is located to the within an area of open countryside, approximately 0.5 miles from the settlement of Llanfair Caereinion. The proposed unit would be located to the south-east of the existing buildings on the farm and is bound by agricultural land to the north, east, south and west. The application site is agricultural land which has been intensively farmed.

The site is located approximately 100 metres to the north of an ancient woodland and approximately 2.2 km from the Gweunydd Ger Fronhaul SSSI. Public right of way 225/193/1 lies approximately 167 metres to the south of the site.

The proposed buildings would measure 85 metres in length, 20 metres in width, with a maximum height of 6.3 metres falling to 3 metres at the eaves. The feed silos will be located at the north-eastern end of the unit. It is proposed for the building to be finished in juniper green box profile sheeting and the feed silos would be finished in a dark blue/grey.

The access to the broiler units would be through a new access created from the C2130.

### Consultee Response

Llanfair Caereinion T C

At the meeting of Llanfair Caereinion Town Council on Monday 25th September 2017 the above application was unanimously supported as the members wish to support a local rural business.

#### Highways Dept north

#### 1<sup>st</sup> Response

The County Council as Highway Authority for the County Class III Highway, C2130 / Class II, B4385

Wish the following recommendations/Observations be applied  
Recommendations/Observations

This application should be refused.

#### Reasons for Refusal

The junction of the C2130 with the B4385 is extremely substandard in terms of width, junction radii, clear visibility due to the horizontal and vertical alignment of the Class II highway.

The C2130 is extremely narrow at around 3 metres for its entire length. Due to the insufficient junction width two vehicles are unable to enter and egress the C2130 simultaneously to/from the B4385.

There are insufficient passing bays whether formal or informal on the C2130 thus preventing any simultaneous two way vehicle movements.

Any increased use of this highway or junction will be prejudicial to highway safety.

To ensure that adequate provision is made for highway access onto the County Class III road to serve the approved development in accordance with policies GP1 and GP4 of the Powys Unitary Development Plan.

#### 2<sup>nd</sup> Response

The County Council as Highway Authority for the County Class III Highway, C2130 / Class II, B4385

Wish the following recommendations/Observations be applied  
Recommendations/Observations

Prior to any other works commencing on the development site, detailed engineering drawings for a widening and visibility improvement along the Class II B4385 and Class III C2130 and associated works as shown on drawing number RPP/GD-JOB40-03 Rev A, shall be submitted to and approved in writing by the Local Planning Authority.

Prior to any works commencing on the development site, all Highway Improvements, referred to above, shall be fully completed to the written satisfaction of the Local Planning

Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC1 Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.

HC2 The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.

HC3 The centre line of the first 20 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.

HC4 Prior to the commencement of the development the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.

HC7 Prior to the commencement of the development the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.

HC8 Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than two cars and two heavy goods vehicles together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.

HC11 Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

HC12 The width of the access carriageway, constructed as Condition HC7 above, shall be not less than 5.5 metres for a minimum distance of 20 metres along the access measured

from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.

HC13 Prior to the occupation of the development a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.

HC21 Prior to the first beneficial use the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,

HC29 All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.

HC30 Upon formation of the visibility splays as detailed in HC4 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.

HC37 Prior to any works being commenced on the development site the applicant shall construct one passing bay, in a location to be agreed in writing by the Local Planning Authority. The passing bay shall be constructed up to adoptable standard prior to any works being commenced on the development site

#### Building Control

No response received by Development Management at the time of writing this report.

#### Wales & West Utilities

Wales & West Utilities acknowledge receipt of your notice received on 25.09.2017, advising us of the proposals for:

Rhiwhirrieth Isaf, Llanfair Caereinion, WELSHPOOL, Powys, SY21 0DU

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

#### Severn Trent Water

Thank you for the opportunity to comment on this planning application. Please find our response noted below:

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

### Environmental Health

#### 1<sup>st</sup> Response

I would recommend that collection and deliveries times be restricted. We have had issues with late night feed lorries on similar site.

There is no mention regarding the method of controlling flies, which again has been an issue on similar sites.

#### 2<sup>nd</sup> Response

Method of control within the unit.

I would look at 8am -6pm Monday- Friday, 8am-1pm Saturday and no deliveries Sunday or Bank Holidays.

### Contaminated Land Officer

In relation to Planning Application P/2017/1071, there would be no requirements in respect of land contamination.

### Welsh Government Transport

I refer to your consultation of 22/09/2017 regarding the above planning application and advise that the Welsh Government as highway authority for the A458 trunk road does not issue a direction in respect of this application. If you have any further queries, please forward to the following Welsh Government Mailbox  
[NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK](mailto:NorthandMidWalesDevelopmentControlMailbox@Wales.GSI.Gov.UK)

PCC Ecologist

<b>Planning Application Reference</b>	P/2017/1071
<b>Project Name / Description</b>	or Full: Erection of a poultry unit, silos, formation of vehicular access and roadway together with all associated works at , Land at Rhiwhiriaeth Isaf , Llanfair Caereinion, Welshpool, Powys.
<b>Consultation Deadline</b>	13/10/2017

Tudalen 282

<b>Ecological Topic</b>		<b>Observations</b>
<b>EIA Screening Opinion needed?</b>	<b>Unknown / Unconfirmed</b>	The applicants have stated that the proposals involve a free-range poultry unit and not an intensive livestock unit (Design and Access Statement, paragraph 9.7). However, I recommend that the LPA confirm their agreement of this. The proposal falls below the Schedule 1 (17a) threshold for intensive livestock installations of 60,000 places for hens, but exceeds the Schedule 2 (1a) threshold of having a floor space area higher than 500m <sup>2</sup> (the total floor space is 1,700m <sup>2</sup> ). A formal EIA Screening Opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 may therefore be required from the LPA.
<b>Ecological Information included with application?</b>	<b>Yes</b>	<p>A Great Crested Newt assessment report by Star Ecology (June 2017) has been submitted with the application. These observations are also based on an interpretation of available aerial and street imagery, the submitted plans and historical biodiversity records provided by the Powys and Brecon Beacons National Park Biodiversity Information Service.</p> <p>The proposal involves the installation of a free-range poultry unit within an existing field of improved pasture, bounded by a mature hedgerow to the south, which would be retained. A proposed access route would pass through an arable field to the north. A fenceline borders the western side of the proposed access route. However, a short section of hedgerow appears to require removal to allow access between the two fields and there appears to be an ivy-clad semi-mature tree in close proximity to this; in response to NRW the Pre-application Consultation report confirms that no trees will be removed. Short sections of hedgerow would also need to be</p>

		<p>removed to provide the required visibility splay for the new site entrance and the Pre-application Consultation report confirms that these would be translocated to their new positions.</p> <p>The DAS confirms that no external lighting is proposed other than a small light for staff use with the egg collection unit during the winter months.</p>
Protected Species & Habitats <sup>1</sup>	European Species	<p>Within 2km of the site there are records of Otter (within 476m at the closest) and various bat species (including Long-eared bat within 159m).</p> <p>A Great Crested Newt assessment has been completed (Star Ecology, June 2017) due to the presence of two ponds approximately 300m east of the proposed unit. There are no historic records of GCN from within 2km of the proposals and following HSI assessment and eDNA analysis the GCN assessment concluded that the ponds are unsuitable for breeding GCN.</p> <p>☒ No direct impacts upon protected species are considered likely due to the proposed shed and ranging area being limited to improved pastoral grassland, with no direct impacts to wildlife-rich habitat.</p> <p>The adjacent hedgerows and trees could provide foraging/connecting and roosting habitat respectively for all native bat species and should therefore be protected during the works in accordance with BS5837:2012.</p>
	UK Species	<p>Within 2km of the site there are records of Slow-worm (within 1040m), Badger (within 575m) and various nesting birds including House sparrow, Dunnock, Starling and Song thrush.</p> <p>☒ The affected hedgerows may provide foraging/connecting habitat for various protected species, including reptile species. I therefore recommend that a suitably-experienced ecologist is present during the hedgerow translocation/removal works to act as a watching brief for reptiles and any other small animals that may be present and at risk of being harmed.</p>

<sup>1</sup> Species records within 1km (minimum).

		<p>The small sections of hedgerow to be translocated could also provide suitable nesting habitat for various breeding birds. Recommendations are therefore made to avoid vegetation clearance during the bird nesting season (March – August inclusive). If this is not achievable a suitably-experienced ecologist should check the vegetation to be removed immediately in advance of the planned clearance to confirm whether active bird nests are present. Only once it has been confirmed that no active bird nests are present could the vegetation clearance proceed.</p>
	<p>Section 7 Species &amp; Habitats</p>	<p>The applicant should be mindful that, in accordance with Powys County Council’s duty under Section 7 of the Environment (Wales) Act 2016, TAN 5, UDP policies and biodiversity SPG, as part of the planning process PCC should ensure that there is no net loss of biodiversity or unacceptable damage to a biodiversity feature.</p> <p>Within 2km of the site there are historic records of Hedgehog (within 958m), Hare (within 1041m) and Polecat (within 1195m). The hedgerows present on the site would appear to provide suitable habitat for these species. I therefore recommend that the ecological watching brief for reptiles during the hedgerow translocation works is extended to consider the presence of other small animals that may be present and at risk of being harmed.</p> <p><input type="checkbox"/> Hedgerows are a Section 7 priority habitat and are present to the south of the proposal and at the proposed access location. I therefore recommend that these are retained as part of the proposal in accordance with BS5837:2012 and protected from damage during the works. The proposals to translocate the sections of hedgerow for the new access are welcomed.</p> <p>Numerous watercourses run through the immediately surrounding area, including the proposed ranging area. A manure management plan has been submitted with the application which includes recommendations to restrict the application of manure near watercourses. The proposed areas of application have been shown within the plan showing buffer zones adjacent to the surrounding watercourses, wells and springs as appropriate.</p> <p>A drainage plan outlining the proposed arrangements for the clean surface water and dirty water collected during operation of the unit has been presented with the application. Dirty water would be collected in an underground tank via a sump during cleaning operations and removed</p>



		<p>from site in a vacuum tanker.</p> <p>A pollution prevention plan has been submitted with the application demonstrating that there are measures in place to limit the risk of polluting surrounding watercourses during construction of the proposed extension. The measures identified in the plan should be adhered to for the duration of the works and during its operational use.</p> <p>I recommend that a biodiversity enhancement plan is presented with the application which incorporates measures such as bird nest boxes and bat roost boxes within the external facades of the proposed extension.</p>
	LBAP Species & Habitats <input checked="" type="checkbox"/>	Please refer to the observations above.
<b>Protected Sites</b>	International Sites <sup>2</sup> <input type="checkbox"/>	A SCAIL Modelling Assessment of Ammonia and Nitrogen has been completed by Roger Parry and Partners and did not identify any European protected sites within 10km of the proposals.
	National Sites <sup>3</sup> <input type="checkbox"/>	The SCAIL Modelling Assessment identified 17 SSSI's within 10km of the proposals. The closest SSSI is identified as being 2.2km away (Gweunydd Ger Fronhaul SSSI) and the estimated process contribution to the site is calculated as being 1% and therefore not exceeding the 1% threshold for SSSI's. The Pre-application Consultation report confirms that NRW were satisfied that no detailed air modelling was required for the proposals.
	Local Sites (within 500m) <input type="checkbox"/>	The SCAIL Modelling Assessment states that the closest ancient woodland (East Woodland) has been considered, but process contributions to this site were deemed insignificant.
<b>Invasive Non-Native Species</b>	<b>Unknown</b>	The presence of invasive non-native plant species at the site is unconfirmed but considered unlikely due to the current land use.

<sup>2</sup> International designated site within 2km of the proposals. Consider International sites within 15km of proposals with bats as qualifying features, and 10km with otters as qualifying features if the proposal is likely to affect these features.

<sup>3</sup> Any national designated sites within 500m of the proposal, extending to 2km dependant on features of interest *i.e.* wetlands (Powys LDP)

<b>Recommendations</b>		<p>The applicants have stated that the proposals involve a free-range poultry unit and not an intensive livestock unit (Design and Access Statement, paragraph 9.7). However, I recommend that the LPA confirm their agreement of this. The proposal falls below the Schedule 1 (17a) threshold for intensive livestock installations of 60,000 places for hens, but exceeds the Schedule 2 (1a) threshold of having a floor space area higher than 500m<sup>2</sup> (the total floor space is 1,700m<sup>2</sup>). A formal EIA Screening Opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 may therefore be required from the LPA.</p> <p>I recommend that a tree/hedge protection plan is submitted prior to commencement of works to confirm how the adjacent hedgerow and trees will be retained and safeguarded during the works.</p> <p>I recommend that a biodiversity enhancement plan is presented with the application which incorporates measures such as bird nest boxes and bat roost boxes within the external facades of the proposed extension.</p> <p>The hedgerows present on the site would appear to provide suitable habitat for reptiles and small mammals. I therefore recommend that an ecological watching brief for reptiles and small mammals is present during the hedgerow translocation works to reduce the risk of such animals being harmed.</p>
<b>Further information required prior to determination of application</b>		None.

**Recommended Conditions**

Should you be minded to approve this application, I recommend the inclusion of the following conditions:

*An ecological watching brief for reptiles and small mammals shall be maintained by a suitably qualified and experienced ecologist during the hedgerow translocation works.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*Prior to commencement of development, a Biodiversity Enhancement Plan shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies SP3, ENV2, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh government strategies, and the NERC Act 2006.

*Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

*No manure from the egg laying unit shall be spread on the holding without the prior written approval of the LPA. In no circumstances shall such manure be spread within 10m of any watercourse, protected dwelling or SSSI.*

Reason: To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.*

Reason: To comply with Powys County Council's UDP Policy ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.*

Reason: To comply with Powys County Council's UDP Policy ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

*The Pollution Prevention Method Statement (Roger Parry and Partners LLP) presented with the application shall be implemented and maintained thereafter unless otherwise agreed in writing with the LPA.*

Reason: To comply with Powys County Council's UDP Policies ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

#### **Informatives**

#### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

**Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if

	<p>a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email <a href="mailto:enquiries@bats.org.uk">enquiries@bats.org.uk</a></p> <p><b>Reptiles - Wildlife &amp; Countryside Act 1981 (as amended)</b> All UK native reptile species are protected by law. The Wildlife &amp; Countryside Act 1981 (and later amendments) provides the legal framework for this protection.</p> <p>The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury</p> <p>All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.</p>
<p><b>Relevant UDP Policies</b></p>	<p>SP3 Natural, Historic and Built Heritage ENV 2: Safeguard the Landscape ENV 3: Safeguard Biodiversity and Natural Habitats ENV 6: Sites of Regional and Local Importance ENV 7: Protected Species</p>

## NRW

Thank you for your consultation received on 24th October 2017. We previously provided pre-application advice to the developer on this case on 21<sup>st</sup> July 2017 CAS-36413-M8G5 and 18<sup>th</sup> September 2017 CAS-36413-M8G5.

We have significant concerns with the proposed development as submitted. We recommend that you should only grant planning permission if you attach the condition listed below. We would object if the consent does not include this condition.

Condition 1: Pollution Prevention - To prevent pollution to watercourses during the construction and operational phases of the proposal the development shall be carried out in accordance with the;

- Method Statement Pollution Prevention
- Drainage Plan GD-MZ168-03 18/07/2017
- Range Plan
- Manure Management Plan
- Manure spreading map

Air Quality: Protected Sites

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included; *Requirement 1 – Detailed Air Quality Modelling to provide assurance that no protected sites will be adversely affected.*

We advised that Requirement 1 would be necessary following our review of the initial SCAIL report in July. The report was subsequently re-submitted during August with amended input data and a further SCAIL modelling report has been submitted with the planning application documents (uploaded 22<sup>nd</sup> September 2017).

Gweunydd Ger Fronhaul SSSI 2.2km

The background ammonia is 1.54  $\mu\text{g}/\text{m}^3$  and background nitrogen deposition is 20.58 kgN/ha/yr.

The ammonia critical level is 3  $\mu\text{g}/\text{m}^3$  and the nitrogen critical load is 20.0 kgN/ha/yr for the site.

The farm process contribution to ammonia is 0.01  $\mu\text{g}/\text{m}^3$  which is 0.33% of the critical level and to nitrogen is 0.05 kgN/ha/yr which is 0.25% of the critical load.

In conclusion, we are satisfied that the farm process contributions of ammonia and nitrogen deposition from this proposed unit are below the thresholds we apply in our assessment of potential impacts on SSSIs.

For Cors Llanllugan SSSI (4.1km), Cors Cefn Llwyd SSSI (4.2km), Gwaun Efail Wig SSSI (4.7km), Cors Ty Gwyn SSSI (4.8km) and Coed Ty Mawr SSSI (4.9km) the farm process contributions of ammonia and nitrogen are zero therefore they are below the thresholds we apply in our assessment of potential impacts on SSSIs.

Following receipt of an amended air quality report on 29th August 2017, our response on 18th September 2017 CAS-36413-M8G5 included; *Revised Requirement 1 – Details of the fan specification to confirm that the revised results can be practically achieved.*

The SCAIL Modelling report (22/09/2017) provides the fan specification on page 15. A maximum fan flowrate of 10m<sup>3</sup>/s can be achieved using the fan model and design identified (M1070-ST-D10). Providing this fan model and design, or better, is used in the construction the emissions from the proposal are not likely to be significant. Therefore, the requirement has been met.

#### Drainage Plan

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included; '*Requirement 2 – Drainage Plan*', as a Drainage Plan had not been submitted with the pre-application documents.

Drainage plan received GD-MZ168-03 18/07/2017 confirms that the requirement has been met as the following details are shown;

- Shows stone attenuation trenches for clean surface water and discharge to watercourse
- Shows dirty water flow underground connection to SSAFO compliant dirty water tank
- Concrete apron around building

#### Range Plan

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included; '*Requirement 3 – Range Plan: Clarification regarding range area buffers to watercourses*' as it was necessary for the applicant to confirm that the buffers would be fenced, and our plans appeared to show a great length of watercourse than those on the submitted plans.

The 'Ranging Plan' submitted with the planning application shows

- watercourses and ponds
- buffers of 10m around watercourses and protected sites
- range area of 10.5ha
- direction of slope
- field drains to retain sediment from potential runoff

Other planning submissions have explained that watercourse has been previously culverted, therefore it will not be vulnerable to pollution from the ranging area. The requirement has been met.

#### Manure Management Plan

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included; '*Requirement 4 – Manure Management Spreading Map*' as the necessary plan had not been included in the pre-application information.

The spreading map submitted with the planning application shows suitable 'no spread' buffers around sensitive receptors and the requirement has been met.



The submitted manure management plan demonstrates that there is sufficient land available to spread manure at a rate that is lower than the Code of Good Agricultural Practice (CoGAP) recommended upper limit of 250kg Nitrogen /ha. The Design and Access Statement paragraph 2.2 states that the farm holding has manure stores and silage clamps.

### Pollution Prevention

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included; Requirement 5 - *A site specific pollution prevention plan*' as it was necessary to confirm the pollution prevention measures during culverting of the watercourse underneath the building. The revised Method Statement Pollution Prevention (MSPP) for Land at Rhiwhiraeth Isaf, Llanfair Caereinion confirms that the watercourse that appeared to be underneath the building footprint has been previously culverted. This will need to be secured through the following condition;

Condition 1: Pollution Prevention - To prevent pollution to watercourses during the construction and operational phases of the proposal the development shall be carried out in accordance with the;

- Method Statement Pollution Prevention
- Drainage Plan GD-MZ168-03 18/07/2017
- Range Plan
- Manure Management Plan
- Manure spreading map

### European Protected Species

Our response on 21<sup>st</sup> July 2017 CAS-36413-M8G5 included;' *Requirement 6 - European Protected Species – Bats*'.

- Bats

We previously stated to the developer that we needed a map/plan to clearly indicate the location of any trees that are likely to be directly or indirectly affected by the proposal. WE now understand that a section of hedgerow will be removed for access, and then the access road will pass between two mature trees. Therefore, it would not be necessary to fell any mature trees and the proposal would be unlikely to have effects on any bat roosts if they are present.

The Design and Access statement confirms that there will be suitable low level lighting. Therefore, this would be unlikely to disturb commuting and foraging bats. The requirement has been met.

- Great Crested Newts (GCN)

We accept the findings and conclusions of the report by Star Ecology (RP/1928/17.1 14th June 2017) that there are no GCN records within 1km and ponds 1 and 2 are unlikely to be successfully used by GCN for breeding purposes.

### Environmental Permitting Regulations

The grant of planning permission does not permit activities that require consent, licence or permit under other legislation. It is the applicant's responsibility to ensure that all relevant authorisations are obtained before any work commences on site.

- Intensive Farming

The current advice relates to a proposed 16,000 free range bird unit. Should the number of birds subsequently increase within the holding to over 40,000 birds an Environmental Permit under the Environmental Permitting Regulations 2016 would be required from Natural Resources Wales.

- Abstractions

Applicants intending to supply new units from ground or surface waters are advised to check the abstraction limits and apply for a permit to abstract if required.

<https://naturalresources.wales/apply-for-a-permit/water-abstraction-licences-and-impoundment-licences/?lang=en>

- Discharges

The written consent of NRW or registration for exemption by the developer will be required for any discharge from the site (e.g. foul drainage to a watercourse) and may also be required for certain categories of discharges to land. All necessary NRW consents, or exemptions must be obtained prior to works progressing on site.

<https://naturalresources.wales/apply-for-a-permit/water-discharges/discharges-to-surface-water-and-groundwater/envir>

Water Resources Act (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil) (Wales) Regulations 2010

All wash water and manures arising from poultry units must be collected and stored in accordance with The Water Resources (Control of Pollution) (Silage Slurry and Agricultural Fuel Oil)(Wales) Regulations 2010 and Welsh Governments Code of Good Agricultural Practice.

Scope of NRW Advice

Our comments only relate specifically to matters that are included on our checklist "Natural Resources Wales and Planning Consultations" (March 2015) which is published on our website: (<https://naturalresources.wales/media/5271/150302-natural-resources-wales-and-planning-consultations-final-eng.pdf>). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests, including environmental interests of local importance. Any site owner/developer should be advised that, in addition to planning permission, it is their responsibility to ensure that they secure all other permits/consents relevant to their development.

Cadw

Thank you for your letter of 22 September 2017 inviting our comments on the above planning application.

### Advice

Having carefully considered the information provided with the planning application, our records show that there are no scheduled monuments or registered historic parks and gardens within the vicinity of the proposed development. We therefore have no comments to make on the proposed development.

### Our role

Our statutory role in the planning process is to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled monuments, registered historic parks and gardens, registered historic landscapes where an Environmental Impact Assessment is required and development likely to have an impact on the outstanding universal value of a World Heritage Site. We do not provide an assessment of the likely impact of the development on listed buildings or conservation areas, as these are matters for the local authority.

It is for the local planning authority to weigh our assessment against all the other material considerations in determining whether to approve planning permission.

### National Policy

Applications for planning permission are considered in light of the Welsh Government's land use planning policy and guidance contained in Planning Policy Wales (PPW), technical advice notes and circular guidance.

PPW explains that the conservation of archaeological remains is a material consideration in determining a planning application, whether those remains are a scheduled monument or not. Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection in situ. It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting.

Paragraph 17 of Circular 60/96, Planning and the Historic Environment: Archaeology, elaborates by explaining that there is a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains. PPW also explains that local authorities should protect parks and gardens and their settings included in the first part of the Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales, and that the effect of a proposed development on a registered park or garden or its setting should be a material consideration in the determination of a planning application.

### **Representations**

The application was advertised through the erection of a site notice and press advertisement. No objections have been received.

### Ramblers

This application does not seem to affect the nearby right of way so the only comment we have is to ask that in the event of planning permission being granted can the applicant please be informed about the importance of keeping the right of way free from obstruction during and after the development works

### **Planning History**

None

### **Principal Planning Constraints**

Class 3 Road C2130

### **Principal Planning Policies**

#### National Planning Policy

- Planning Policy Wales (9th Edition, 2016)
  
- Technical Advice Note 5 – Nature Conservation and Planning (2009)
- Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)
- Technical Advice Note 11 – Noise (1997)
- Technical Advice Note 12 – Design (2016)
- Technical Advice Note 13 – Tourism (1997)
- Technical Advice Note 15 – Development and Flood Risk (2004)
- Technical Advice Note 16 – Sport, Recreation and Open Space (2009)
- Technical Advice Note 18 – Transport (2007)
- Technical Advice Note 23 – Economic Development (2014)
- Technical Advice Note 24 – The Historic Environment (2017)
  
- Welsh Office Circular 11/99 – Environmental Impact Assessment
- Welsh Office Circular 61/96 – Planning and the Historic Environment
  
- Natural Environment and Rural Communities Act (2006)

#### Local Planning Policy

- Powys Unitary Development Plan (2010)

SP3 – Natural, Historic and Built Heritage

SP4 – Economic and Employment Developments

GP1 – Development Control

GP3 – Design and Energy Conservation

GP4 – Highway and Parking Requirements

ENV1 – Agricultural Land

ENV2 – Safeguarding the Landscape

ENV3 – Safeguarding Biodiversity and Natural Habitats

ENV4 – Internationally Important Sites

ENV5 – Nationally Important Sites

ENV6 – Sites of Regional and Local Importance

ENV7 – Protected Species

EC1 – Business, Industrial and Commercial Developments

EC7 – Farm/Forestry Diversification for Employment purposes in the Open Countryside  
EC9 – Agricultural Development  
EC10 – Intensive Livestock Units  
RL6 - Rights of Way and Access to the Countryside  
TR2 – Tourist Attractions and Development Areas  
DC3 – External Lighting  
DC9 – Protection of Water Resources  
DC13 – Surface Water Drainage  
DC14 – Development and Flood Risk

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

## **Officer Appraisal**

### Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

### Environmental Impact Assessment Regulations 2017

Part 2 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 details development proposals and associated thresholds defining where a development proposal constitutes EIA development. These are contained in Schedule 1 and 2 of the Regulations. Schedule 1 of the regulations lists those developments where EIA is mandatory and Schedule 2 where the development must be screened to determine if it is EIA development.

Schedule 1 of the Regulations states that the threshold for the “intensive rearing of poultry is 85,000 places for broilers or 60,000 for hens”. Whilst an Environmental Impact Assessment is not a mandatory requirement for the proposed development, the floor area of the proposed building exceeds the applicable threshold of 500 square metres and therefore for the purposes of the regulations is Schedule 2 development requiring a screening opinion to be issued by the Local Planning Authority.

Members are advised that the proposed poultry development was assessed against the selection criteria contained within Schedule 3 of the Regulations, with the opinion being that the development was not EIA development.

### Principle of Development

Policies EC1, EC7, EC9 and EC10 accept the principle of appropriate agricultural development within the open countryside. In light of the above, Officers are satisfied that the principle of the proposed development at this location is generally supported by planning policy.

## Farm Diversification

Rhiwhiriaeth Isaf is a family owned farming business and is seeking consent to diversify in order to secure the long-term viability of the farming enterprise.

Planning policy acknowledges that rural enterprises play a vital role in promoting healthy economic activity within rural areas. Planning Policy Wales (2016) and Technical Advice Note 23 (2014) emphasises the need to support diversification and sustainability in such areas, recognising that new businesses are key to this objective and essential to sustain rural communities therefore encouraging Local Authorities to facilitate appropriate rural development.

Notwithstanding the policy presumption in favour of appropriate rural development, support needs to be balanced against other material considerations including landscape and visual impact, highway safety implications, ecology together with the potential impact on local amenity. Consideration of such matters is duly given below.

## Landscape and Visual Impact

Guidance within the Powys Unitary Development Plan indicates that development proposals will only be permitted where they would not have an unacceptable impact on the environment and would be sited and designed to be sympathetic to the character and appearance of its surroundings.

The application site comprises of agricultural land located approximately 230 metres to the south east of the existing farm complex. Details provided with the application state that the site was chosen as other locations had more impact on landscape and visual receptors than the chosen site.

The building will be finished in juniper green box profile sheeting, and this combined with its low profile will help the building assimilate into the landscape. Existing trees and hedgerows will be retained which will minimise views from the west of the site.

There is the opportunity to view the development from other properties whose occupiers would be more sensitive to visual impacts. In particular it is possible that the upper parts of the buildings and feed bins would be visible. However the distance maintained between the proposal and nearby properties, together with the trees and hedgerows on intervening land, it is considered that there would not be an unacceptable impact on residential receptors.

A public right of way is located near to the site, being located to the south. Users are quite likely to be using these routes recreationally and it is likely that they would be sensitive to changes in the established rural setting of these routes. However the existing vegetation will serve to mitigate the view from the public rights of way network. From the public rights of way it is considered that the effect on visual amenity would not be unacceptable.

The Powys Unitary Development Plan through policy EC9 seeks to ensure that the harm from new agricultural buildings is minimised through sensitive design and siting. Guidance within EC9 suggests that wherever possible, new buildings should be grouped with existing buildings and utilise materials which are sympathetic to the site's surroundings. Whilst

Officers acknowledge that the proposed poultry development represents a substantial addition to the rural landscape and whilst not grouped immediately adjacent to the existing complex it is considered that the proposed unit would be viewed as integral to the existing farm complex within the wider landscape. Furthermore, given the limited visibility of the application site together with existing landscaping, it is considered by Officers that the proposal is capable of being accommodated without causing unacceptable harm to existing character and appearance.

In light of the above observations and notwithstanding the scale of the proposed development, given the proposed siting together with existing landscaping and topography of the area, it is considered that the proposed development is broadly in accordance with planning policy. Should Members be minded to grant planning permission it is recommended that any consent is subject to appropriate conditions restricting materials and securing the retention of existing landscaping. Subject to the above, Officers consider that the visual and landscape impact associated with the proposed poultry development can be appropriately managed thereby safeguard the Powys landscape in accordance with policies SP3, ENV2, EC1, EC9 and EC10 of the Powys Unitary Development Plan.

### Transport Impacts

Policy GP4 of the Powys Unitary Development Plan indicates that development proposals will only be permitted where appropriate highway provision is incorporated in terms of a safe access, adequate visibility, turning and parking.

Access to the application site will be provided via the existing junction off the C2130 which then connects with the B4350. The proposed development will also widen the existing access to allow for simultaneous access and egress from the site.

Following initial consultation with the Highways Authority concerns were raised regarding the suitability of the access to the site. Following the submission of additional drawings the Highways Authority removed their objection to the proposed development subject to conditions being attached to any approval.

In light of the above, Officers consider the proposed development to be in accordance with planning policy, particularly policies GP4 of the Powys UDP, Technical Advice Note 18 and Planning Policy Wales.

### Biodiversity and Ecology

#### *Gweunydd Ger Fronhaul SSSI*

Policies ENV4, ENV5 and ENV6 indicates that development proposals should preserve and enhance biodiversity and features of ecological interest. There are no Special Areas of Conservation (SACs) within 10km of the site. Specific guidance within UDP policy ENV5 confirms that there will be a presumption against proposals for development likely to damage either directly or indirectly, the nature conservation interest of national nature reserves or sites of special scientific interest.

The proposed site of development is located within approximately 2.2km of the following Nationally Designated sites;

- Gweunydd Ger Fronhaul SSSI

The following non-statutory designated sites are located within approximately 1km of the proposed poultry unit;

- 8 parcels of Ancient Woodland

In support of the application a SCAIL modelling report was submitted. Consultation with NRW confirmed that the process contributions of ammonia and nitrogen deposition from the proposed development appear to be below the threshold that NRW apply in their assessment of potential impacts on SSSIs.

### *Protected Species*

Policy ENV7 of the Powys UDP, TAN5 and PPW seek to safeguard protected species and their habitats.

A Great Crested Newt assessment report by Star Ecology dated June 2017 was submitted in support of the application. Following consultation with both NRW and the Powys Ecologist no objection to the proposed development subject to conditions being attached to any grant of consent securing a watching brief, a tree and hedgerow protection plan, and works being undertaken in line with the submitted reports and pollution prevention plan.

In light of the above and subject to the recommendations, it is considered that the proposed development is in accordance with policies SP3, ENV3 and ENV7 of the Powys UDP, Technical Advice Note 5 and Planning Policy Wales.

### Residential Amenity

Intensive livestock units have the potential to impact on the living conditions of residents living nearby through a number of factors, in particular emissions of noise and odour, concerns relating to which have been expressed within third party representations received.

Members are advised that the application is supported by an Environmental Statement which contains chapters assessing the significant likely impacts on amenity and the living conditions of neighbouring properties. Consideration of the aforementioned impacts is duly given below;

### *Noise*

UDP policy GP1 states that development proposals will only be permitted where the amenities enjoyed by the occupants of nearby or proposed properties shall not be unacceptably affected by levels of noise. Officers acknowledge that intensive livestock units have potential to generate noise impact from plant/equipment (roof mounted extractor fans) and general operational activities.

The proposed building will incorporate the use of mechanical ventilator extraction fans. The closest residential property is approximately 225 metres away and it screened from the development by a block of woodland.

Environmental Health were consulted on the application and offered no objection subject to the proposed development regarding noise subject to a condition limiting hours of delivery.



On the basis of the comments received, Officers consider that sufficient information has been submitted to demonstrate that the proposed poultry development will not have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of noise. As such, the proposed development is considered to fundamentally comply with UDP policies GP1, EC1 and EC10, Technical Advice Note 11 and Planning Policy Wales.

### *Odour*

In terms of odour, odour levels can be assessed using odour dispersal model based on standardised values. Odour concentrations are expressed as European odour units per cubic metre (ouE/m<sup>3</sup>). The Environment Agency (EA) has published guidance for the objective assessment of odour impacts: How to Comply with Your Permit- H4 Odour Management. It recommends the use of 98th percentile of hourly average odour concentrations modelled over a year. Appendix 3 of this document provides a benchmark of 3.0 ouE/m<sup>3</sup> for moderately offensive odours. Moderately offensive odours are identified as including those associated with intensive livestock rearing. It is noted that the use of this threshold has been supported by Inspectors in planning appeal decisions.

The application is supported by a Design and Access Statement which covers the issues of amenity. This states that manure will be removed from the shed every 3-4 days, therefore ensuring there will be no long-standing manure in the shed which would produce odour. The manure will then be spread on the applicants farm holding.

Environmental Health were consulted on the application and offered no objection to the proposed development.

On the basis of the information submitted, it is considered unlikely that the proposed development will have an unacceptable adverse impact on the amenities enjoyed by occupants of neighbouring properties by reasons of odour. Following consultation, it is noted that no concerns have been offered by the Environmental Health Department in this respect. Therefore Development Management considers the proposal to be in accordance with planning policy, in particular UDP policy GP1.

### Ranging

At pre-application NRW requested that detailed ranging information be submitted in support of any forthcoming application. In support of the submission a ranging plan was submitted that detailed the following;

- Watercourse and ponds
- Buffers of 10 metres around the watercourse and protected sites
- Range area of 10.5 hectares
- Direction of slop
- Field drains to retain sediment from potential runoff

Following consultation with NRW it was confirmed that other planning submissions have demonstrated that the watercourse has been previously culverted, therefore it will not be vulnerable to pollution from the ranging area. NRW were content with the submission.

## Drainage

A drainage plan was submitted in support of the application which demonstrates stone attenuation trenches for clean surface water and discharge to watercourse, dirty water flow underground connection to SSAFO compliant dirty water tank and a concrete apron around the building.

At pre-application NRW requested a drainage plan to be submitted with the forthcoming application. This information was provided as part of the application and following consultation with NRW they considered that this requirement had been met and were content with the information.

Powys Ecology were also consulted on the drainage plans and were content with the process of collecting dirty water in an underground tank via a sump during cleaning operations and removed from site in a vacuum tanker.

Therefore Development Management considers the proposal to be in accordance with planning policy, in particular UDP policy DC11 and DC13.

## **Other Legislative Considerations**

### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

#### **RECOMMENDATION**

Development Management considers that the proposed poultry development is compliant with planning policy. On this basis, the recommendation is one of conditional consent.

#### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the documents received (Design & Access Statement dated August 2017, Method Statement Pollution Prevention, Management Plan dates September 2017, Ranging Plan, Manure Management Plan and Great Crested Newt Assessment dated June 2017) and plans received (drawing no's GD-MZ168-01, GD-MZ168-02, GM-MZ168-03, GD-MZ168-03 entitled Drainage Plan and RPP/GD-JOB40-01).
3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions or alterations to the unit shall be erected without the consent of the Local Planning Authority.
4. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 as amended or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification, the premises shall not be used for any purpose other than that hereby authorised.
5. Prior to any other works commencing on the development site, detailed engineering drawings for a widening and visibility improvement along the Class II B4385 and Class III C2130 and associated works as shown on drawing number RPP/GD-JOB40-03 Rev A, shall be submitted to and approved in writing by the Local Planning Authority.

6. Prior to any works commencing on the development site, all Highway Improvements, referred to in condition 5, shall be fully completed to the written satisfaction of the Local Planning Authority and shall be retained for their designated use for as long as the development hereby permitted remains in existence.
7. Prior to the first beneficial use of the development any entrance gates shall be set back at least 20 metres distant from the edge of the adjoining carriageway and shall be constructed so as to be incapable of opening towards the highway and shall be retained in this position and form of construction for as long as the dwelling/development hereby permitted remains in existence.
8. The gradient of the access shall be constructed so as not to exceed 1 in 15 for the first 20 metres measured from edge of the adjoining carriageway along the centre line of the access and shall be retained at this gradient for as long as the development remains in existence.
9. The centre line of the first 20 metres of the access road measured from the edge of the adjoining carriageway shall be constructed at right angles to that edge of the said carriageway and be retained at that angle for as long as the development remains in existence.
10. Before any other development commences the access shall be constructed so that there is clear visibility from a point 1.05 metres above ground level at the centre of the access and 2.4 metres distant from the edge of the adjoining carriageway, to points 0.6 metres above ground level at the edge of the adjoining carriageway and 43 metres distant in each direction measured from the centre of the access along the edge of the adjoining carriageway. Nothing shall be planted, erected or allowed to grow on the area(s) of land so formed that would obstruct the visibility and the visibility shall be maintained free from obstruction for as long as the development hereby permitted remains in existence.
11. Before any other development commences the area of the access to be used by vehicles is to be constructed to a minimum of 410mm depth, comprising a minimum of 250mm of sub-base material, 100mm of bituminous macadam base course material and 60mm of bituminous macadam binder course material for a distance of 20 metres from the edge of the adjoining carriageway. Any use of alternative materials is to be agreed in writing by the Local Planning Authority prior to the access being constructed.
12. Prior to the first beneficial use of the development, provision shall be made within the curtilage of the site for the parking of not less than two cars and two heavy goods vehicles together with a turning space such that all vehicles serving the site may both enter and leave the site in a forward gear. The parking and turning areas shall be retained for their designated use for as long as the development hereby permitted remains in existence.
13. Prior to the commencement of the development provision shall be made within the curtilage of the site for the parking of all construction vehicles together with a vehicle turning area. This parking and turning area shall be constructed to a depth of 0.4 metres in crusher run or sub-base and maintained free from obstruction at all times such that all vehicles serving the site shall park within the site and both enter and leave the site in a forward gear for the duration of the construction of the development.

14. The width of the access carriageway, constructed as Condition 11 above, shall be not less than 5.5 metres for a minimum distance of 20 metres along the access measured from the adjoining edge of carriageway of the county highway and shall be maintained at this width for as long as the development remains in existence.
15. Prior to the occupation of the development a radius of 10.5 metres shall be provided from the carriageway of the county highway on each side of the access to the development site and shall be maintained for as long as the development remains in existence.
16. Prior to the first beneficial use the area of the access to be used by vehicles is to be finished in a 40mm bituminous surface course for a distance of 20 metres from the edge of the adjoining carriageway. This area will be maintained to this standard for as long as the development remains in existence,
17. All surface water run-off is to be collected and discharged via a piped system to a soakaway located within the site no less than 6 metres from the highway. This system shall be retained and maintained for as long as the development remains in existence.
18. Upon formation of the visibility splays as detailed in Condition 10 above the centreline of any new or relocated hedge should be positioned not less than 1.0 metre to the rear of the visibility splay and retained in this position as long as the development remains in existence.
19. Prior to any works being commenced on the development site the applicant shall construct one passing bay, in a location to be agreed in writing by the Local Planning Authority. The passing bay shall be constructed up to adoptable standard prior to any works being commenced on the development site
20. All deliveries to and from site in connection to this application shall be carried out between the following hours, Monday to Fridays from 08.00 to 18.00 hours, Saturdays from 08.00 to 13.00 hours and at no time on Sundays, Bank and public holidays.
21. An ecological watching brief for reptiles and small mammals shall be maintained by a suitably qualified and experienced ecologist during the hedgerow translocation works.
22. Prior to commencement of development a Tree and Hedgerow Protection Plan in accordance with BS:5837:2012 shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter.
23. The storage and spreading of manure will be undertaken in accordance with the DEFRA Code of Good Agricultural Practice for the Protection of Air, Water and Soil.
24. Vehicles used for the movement of manure shall be sheeted to prevent spillage of manure.

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

3. In order to control development which has the potential to have adversely affect the amenity of the area in contradiction to policy GP1 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales (2016).
4. In order that the Local Planning Authority may control the use of the premises in the interests of the protection and preservation of the amenity of the area in accordance with policies GP1, EC1, EC9 and EC10 of the Powys Unitary Development Plan (2010) and Planning Policy Wales (2016).
5. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
6. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
7. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
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16. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
17. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
18. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
19. In the interest of highway safety in accordance with Powys UDP Policy GP4 and Technical Advice Note 18: Transport.
20. To protect the local amenities of the local residents by reason of noise in line with Powys UDP policy GP1.
21. To comply with Powys County Council's UDP Policies SP3, ENV2 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
22. To comply with Powys County Council's UDP policies SP3, ENV2, ENV3 and ENV6 in relation to The Natural Environment and to meet the requirements of TAN 5: Nature Conservation and Planning, Welsh Government strategies, and the Environment (Wales) Act 2016.

23. To comply with Powys County Council's UDP Policy ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.
24. To comply with Powys County Council's UDP Policy ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 9, November 2016), TAN 5: Nature Conservation and Planning and the Environment (Wales) Act 2016.

## **Informative Notes**

### **Birds - Wildlife and Countryside Act 1981 (as amended)**

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

### **Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)**

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural

Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

**Reptiles - Wildlife & Countryside Act 1981 (as amended)**

All UK native reptile species are protected by law. The Wildlife & Countryside Act 1981 (and later amendments) provides the legal framework for this protection.

The more widespread and common reptile species, namely common lizard, slow-worm, grass snake, and adder are protected against deliberate or reckless killing and injury

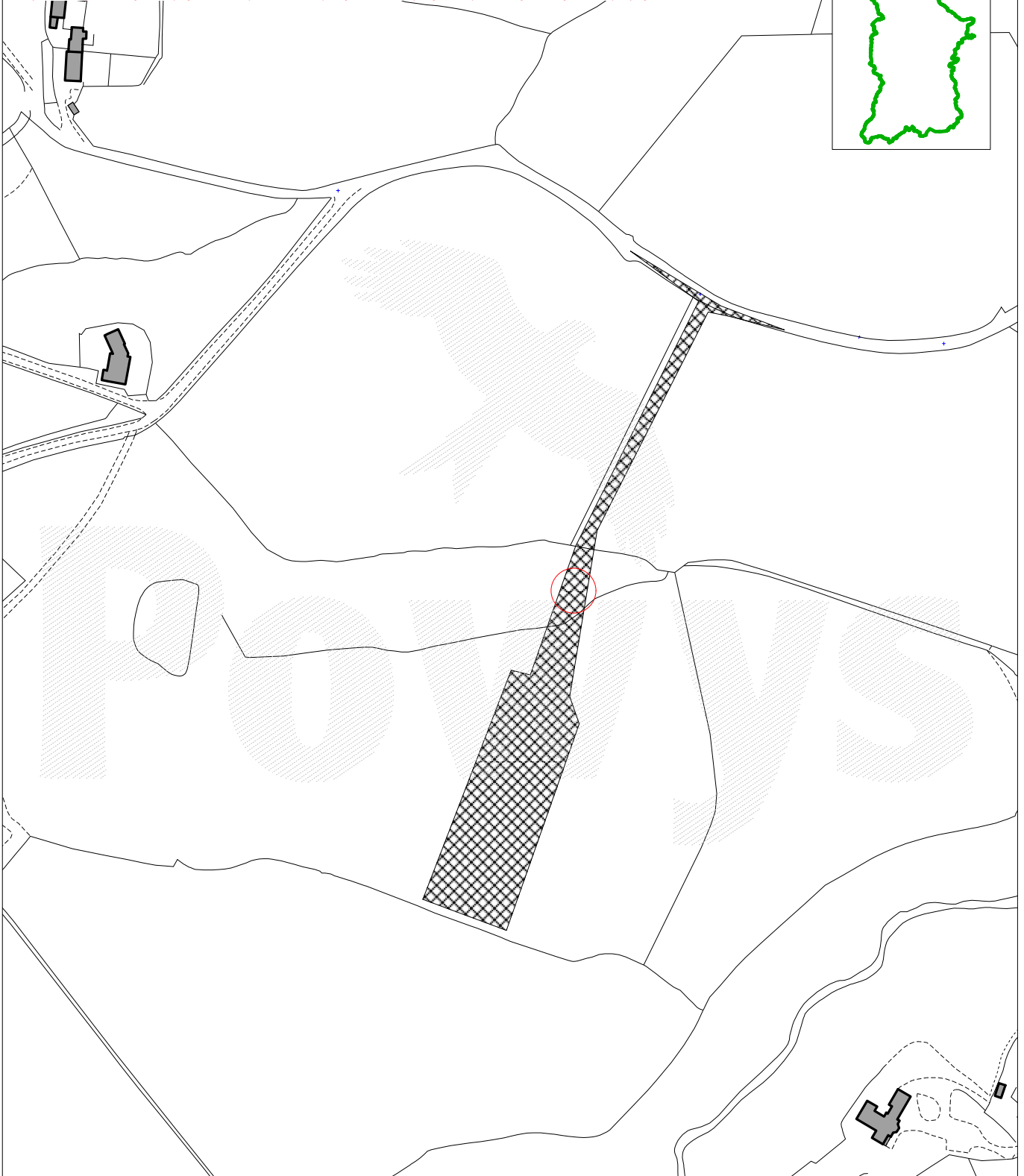
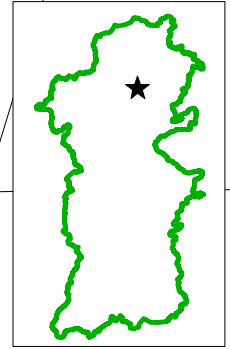
All species of reptile are priority species in the UK BAP and have been adopted on the Section 7 list of the living organisms of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales, under the Environment (Wales) Act 2016.

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Case Officer: Tamsin Law- Principal Planning Officer  
Tel: 01597 82 7230 E-mail: [tamsin.law@powys.gov.uk](mailto:tamsin.law@powys.gov.uk)



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# 5.14

## Planning, Taxi Licensing and Rights of Way Committee Report

<b>Application No:</b>	P/2017/1129	<b>Grid Ref:</b>	309615.54 291394.75
<b>Community Council:</b>	Newtown and Llanwcharian	<b>Valid Date:</b>	<b>Officer:</b> 02/10/2017 Dunya Fourie
<b>Applicant:</b>	Mr Paul Bufton, Milford Road, Tree Tops, Newtown, Powys, SY16 3AR.		
<b>Location:</b>	Tree Tops, Milford Road, Newtown, Powys, SY16 3AR.		
<b>Proposal:</b>	Householder: Proposed first floor extension to existing dwelling along with exterior material changes and replacement windows		
<b>Application Type:</b>	Householder Application		

### **The reason for Committee determination**

This application is submitted by a PCC employee who works closely with Development Management.

### **Site Location and Description**

The site is within Newtown's settlement boundary, as defined by the UDP Inset Maps. The immediate site concerns the dwelling known as Tree Tops. Access to the site is off Milford Road (B4568), via a private single access driveway.

This application seeks full planning consent for the extension and alteration of an existing dwelling house, the proposed development comprises the following:

- Works to the roof; raising the height of the dwelling by approximately 1m, changing the design of the roof from hipped to vertical single pitched.
- Windows; introduction of 3 dormer windows on the front elevation, introduction of 3 roof lights on the rear roof plane, 3 new first floor windows on the east side elevation

### **Consultee Response**

#### Newtown & Llanllwchaiarn Town Council

*Letter of 10<sup>th</sup> October 2017*

NLTC supports the application with no further comment.

#### Highway Authority

*Letter of 10<sup>th</sup> October 2017*

The County Council as Highway Authority for the County Class II Highway, B4568

Does not wish to comment on the application

Severn Trent

*E mail of 17<sup>th</sup> October 2017*

With Reference to the above planning application the company's observations regarding sewerage are as follows:

As the proposal has minimal impact on the public sewerage system I can advise we have no objections to the proposals and do not require a drainage condition to be applied.

To help us provide an efficient response please could you send all responses to [welshplanning@severntrent.co.uk](mailto:welshplanning@severntrent.co.uk) rather than to named individuals, including the STW ref within the email/subject.

Wales and West Utilities

*E mail of 5<sup>th</sup> October 2017*

Our records show those pipes owned by Wales & West Utilities (WWU) in its role as a Licensed Gas Transporter (GT). Service pipes, valves, syphons, stub connections, etc. may not be shown but their presence should be anticipated. No warranties are therefore given in respect of it. They also provide indications of gas pipes owned by other GTs, or otherwise privately owned, which may be present in this area. This information is not information of WWU and WWU is unable to verify this information or to confirm whether it is accurate or complete.

The plan must be printed in A3 size and will also need to be produced in colour. If this is not possible, we can send you a hard copy if requested.

PCC Ecology

*E mail of 22<sup>nd</sup> November 2017*

Thank you for consulting me with regards to planning application P/2017/1129 which concerns the householder application for a proposed first floor extension to existing dwelling along with exterior material changes and replacement windows at Tree Tops, Milford Road, Newtown.

I have reviewed the proposed plans as well as local records of protected and priority species and designated sites within 500m of the proposed development. The data search identified 707 records of protected and priority species within 500m of the proposed development – no records were for the site itself.

There are no statutory or non-statutory designated sites within 500m of the proposed development.

Given the proposed development will impact the existing roof structure consideration has been given to the potential for the property to support roosting bats – bats being a European

protected species. Bat roosts are often associated with roofs, both internally using the loft void and externally, particularly utilising suitable roosting opportunities associated with the ridge and edges of the roofs.

Having reviewed the photographs that were taken during the site visit and photographs submitted by the agent - it is considered that the existing dwelling and roof structure lacks suitable features for roosting bats. The existing roof structure of the dwelling appears to be reasonably well sealed allowing little opportunity for bats to access the structure. Therefore it is considered that the proposed development will not result in the loss of features or habitat suitable for use by roosting bats. In light of this assessment I consider that no further information is considered necessary to determine the potential impact of the proposed development and demolition on bats.

With regards to other protected and priority species identified as present in the local area by the data search it is not considered likely that the proposed development would result in negative impacts to these species and no surveys are considered necessary.

However, should you be minded to approve the application I recommend inclusion of the following informative:

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

## **Representations**

A site notice was erected on the curtilage fence of Tree Tops, no decision was made for a continuous period of 21 days from the date of the site notice. No third party responses have been received.

## **Planning History**

No relevant planning history

## **Principal Planning Policies**

National Planning Policy

Planning Policy Wales (9<sup>th</sup> Edition, November 2016)  
Technical Advice Note 5-Nature Conservation and Planning (2009)  
Technical Advice Note 12-Design (2016)  
Technical Advice Note 18- Transport (2007)

Local Planning Policy-Unitary Development Plan for Powys (March 2010)

SP2-Strategic Settlement Hierarchy  
SP3-Natural, Historic and Built Environment  
GP1-Development Control  
GP3-Design and Energy Conservation  
GP4-Parking and Access Requirements  
GP5-Welsh Language and Culture  
ENV2- Safeguarding the Landscape  
ENV3- Safeguarding Biodiversity and Natural Habitats  
ENV7-Protected Species  
HP4-Settlement Development Boundaries and Capacities  
HP16-House Extensions  
DC10- Mains Sewage Treatment  
DC13- Surface Water Drainage

Powys Residential Design Guide (2004)

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note  
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

**Officer Appraisal**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

UDP policy HP16 seeks to ensure that house extensions will be approved subject to the development being acceptable only where it complements or enhances the character of the existing building in terms of its height, proportion, scale, roof pitches, gable features, materials and fenestration, whilst avoiding any unacceptable loss of parking or adverse impact upon neighbouring properties.

It is therefore believed that the principle of an extension for this dwelling is acceptable within the policy framework of the UDP.

Suitability of design and external appearance

With respect to design, specific reference is made to UDP policies GP1 and HP16. The respective policies indicate that development proposals will only be permitted where the design, proportion, scale, materials and fenestration complements or enhances the character of the existing building.

The character of the existing dwelling is a modest one and half storey, 3 bedroom dwelling. The alterations propose to raise the roof height and design to allow more living accommodation on the first floor. The alterations also include design changes to the type and pattern of fenestration and external materials. Apart from the dwellings immediately adjacent to this development site, the surrounding area predominantly accommodates two storey dwellings with single pitch roofs. The criteria set out under policy HP16 is noted and it is considered the proposed changes would enhance the appearance of the dwelling by introducing quality materials and the remodelled dwelling would be in keeping with the wider design precedent of the area. As such while the design changes do not complement the existing dwelling they do enhance its character and as such is considered acceptable in terms of design

#### Impact on neighbour amenity

Policy HP16 confirms extensions should not result in adverse impact upon neighbouring properties. The key neighbour amenity considerations associated with the proposed scheme are whether or not the increased height of the building would result in it having an overbearing impact on the neighbouring properties or when viewed within the context of the area and whether the dwelling, as altered, would overshadow a habitable room within a neighbouring property. It is also necessary to consider whether the alteration to the pattern and design of fenestration would result in the amenity of the neighbouring properties being reduced through overlooking.

The dwelling is a detached property and sits in a row of detached properties overlooking the roadway to the south and ascending hillside to the north. The separation distance between the neighbours to the east and west is sufficient to accommodate the increased height of the building, without it appearing overbearing or overshadowing windows of habitable rooms. The scheme proposes windows at first floor height on the east side elevation only, the neighbouring dwelling to the east is single storey in height and the only window on the facing side elevation is on the ground floor and appears to serve a utility room, the proposed first floor windows would therefore overlook the roof space of the neighbouring dwelling and as such would not reduce the amenity enjoyed by occupiers of the neighbouring dwelling or this dwelling. The ground floor windows on the side elevations remain unchanged as a result of this proposal and as such raise no amenity concerns above any which may already exist.

In light of the above it is therefore considered that the development fundamentally complies with relevant planning policy.

#### Suitability of access arrangements

Policy GP4 and HP16 seek to ensure development is served by a suitable means of access and parking arrangements. The proposed scheme would not result in any alterations to the footprint of the dwelling and as such would not alter the existing access and parking arrangements. The dwelling would not result in an increased number of bedrooms and as

such the occupation of the dwelling is unlikely to increase and as such there would be no intensified use of the access or parking arrangements.

The Highway Authority raises no objection to the proposal.

In light of the above it is therefore considered that the proposed development fundamentally complies with relevant planning policy.

### Impact on Ecology

The proposed scheme involve works to the roof space of the existing dwelling, bats are known to roost in favourable roof voids and as such, in accordance with TAN5 and policy ENV7 the Local Authority need to be sure development would not have a detrimental impact on the favourable conservation status of any bat population in this area.

The ecologist has carried out an assessment of the roof space and notes in their response the existing roof lacks suitable features for roosting bats and therefore it is considered that the proposed development will not result in the loss of features of a habitat suitable for roosting bats.

Subject to an informative being attached to any grant of consent the Powys Ecologist therefore confirmed that they have no objections to the proposed development and it is therefore considered to fundamentally comply with relevant planning policy.

### **Other Legislative Considerations**

#### Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

#### Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.



The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

#### Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

#### Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

### **Recommendation**

The proposed scheme is in accordance with the relevant national and local planning policies, as listed within this report. The recommendation is one of conditional approval

### **Conditions**

1. The development to which this permission relates shall be begun no later than the expiration of five years from the date of this permission.
2. The development shall be carried out strictly in accordance with the approved plans; references include Location Plan (S077 1.3.01), Existing survey details (S0771.1.03), Proposed floor plans and elevations (S077 1.1.06)

### **Reasons**

1. Required to be imposed by Section 91 of the Town and Country Planning Act 1990.
2. To ensure adherence to the plans stamped as approved in the interests of clarity and a satisfactory development.

### **Informative Notes**

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses

for shelter or protection. This is taken to mean all bat roosts whether bats are present or not. Under the Habitats Regulations it is an offence to:

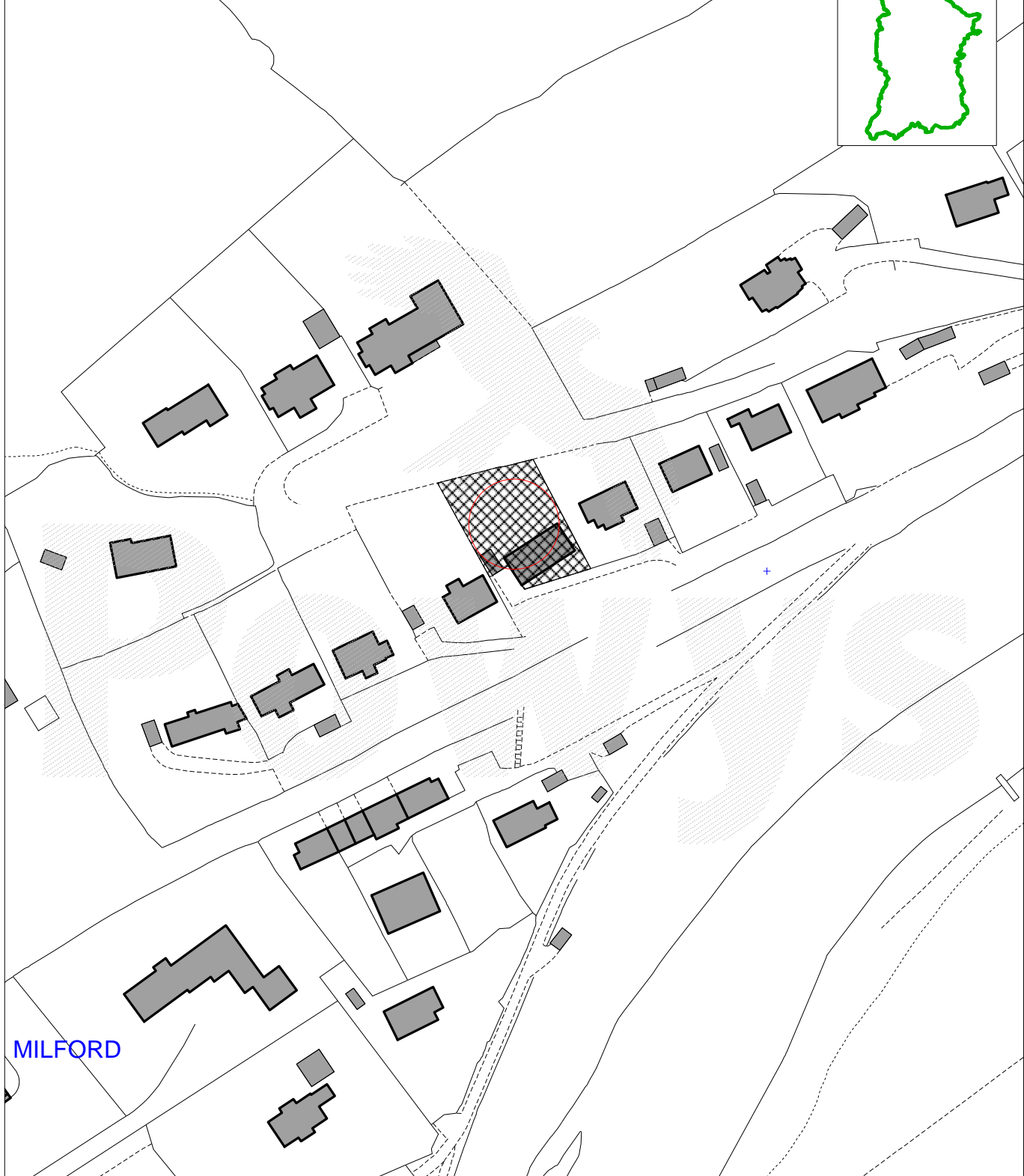
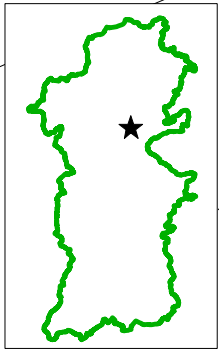
- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email [enquiries@bats.org.uk](mailto:enquiries@bats.org.uk)

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Case Officer: Dunya Fourie- Planning Officer  
Tel: 01597 82 7319 E-mail: [dunya.fourie@powys.gov.uk](mailto:dunya.fourie@powys.gov.uk)

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Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/09/17

gan Clive Sproule BSc MSc MSc  
MRTPI MIEnvSci CEnv

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 15.11.2017

## Appeal Decision

Site visit made on 19/09/17

by Clive Sproule BSc MSc MSc  
MRTPI MIEnvSci CEnv

an Inspector appointed by the Welsh Ministers

Date: 15.11.2017

### Appeal A Ref: APP/T6850/A/17/3180520

**Site address: Dolbedwyn, C1332 from farm entrance at Dolbedwyn to crossroads with B4594 east of Dol-y-cannau, Newchurch, Kington HR5 3QQ**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr & Mrs Daniel Price against the decision of Powys County Council.
- The application Ref P/2017/0250, dated 03/03/17, was refused by notice dated 29/06/17.
- The development proposed is the erection of new kitchen/dining area to the south-east of the main house, this linked by a glazed passage, together with removal of modern internal partitioning to reveal original features.

### Appeal B Ref: APP/T6850/E/17/3180519

**Site address: Dolbedwyn, C1332 from farm entrance at Dolbedwyn to crossroads with B4594 east of Dol-y-cannau, Newchurch, Kington HR5 3QQ**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Mr & Mrs Daniel Price against the decision of Powys County Council.
- The application Ref P/2017/0251, dated 03/03/17, was refused by notice dated 29/06/17.
- The works proposed are erection of new kitchen/dining area to the south-east of the main house, this linked by a glazed passage, together with removal of modern internal partitioning to reveal original features.

## Decisions

Appeal A Ref: APP/T6850/A/17/3180520

1. The appeal is dismissed.

Appeal B Ref: APP/T6850/E/17/3180519

2. The appeal is dismissed.

## Procedural matter and main issue

3. The Council's appeals statement highlighted that its decision notices refer to Powys Unitary Development Plan 2001-2016 ('UDP') Policy GP6 – *Conversion of buildings in the countryside*, but these references should have been to UDP Policy GP1 – *Development control*. The appeals have been determined within the context of this correction.
4. Dolbedwyn is a Grade II\* listed building. Therefore, the main issue for both appeals is considered to be whether the proposed works would preserve the building or its setting or any features of special architectural or historic interest which it possesses.

## Reasons

5. The Cadw listing notes Dolbedwyn<sup>1</sup> to be a two storey 16<sup>th</sup> century former hall house with a 17<sup>th</sup> century dairy wing, and 19<sup>th</sup> century modifications that had been largely superseded by restoration work during the 1980s. Although the house has stone exterior walls of varying ages, the building was originally timber framed. Vehicular access to the site, and the entrance hall for the house, are on the north western side of the dwelling.
6. The elevation on the opposite, south eastern side of the building, has two large 'lateral' chimney stacks that project out from it. While there are a considerable number of listed buildings in the county, it is rare to find two lateral stacks on the same elevation.<sup>2</sup> The Dolbedwyn lateral chimneys are recorded on its listing description, along with a number of other external features that include the slate roof and the 'gables' that run from the roof ridge to the lateral stacks. By their size, scale, form and position the lateral chimneys are distinctive and significant features of the dwelling that, along with sections of the north eastern and south western gable ends, are noted to date from the late 16<sup>th</sup>/17<sup>th</sup> century.<sup>3</sup>
7. Internally, the listing description confirms Dolbedwyn to be Grade II\* '*...for the remarkable range of well-preserved internal features from Elizabethan and later period...*'. These features are apparent within the appeals documentation and on entering the building.
8. On the south eastern side of Dolbedwyn is a large garden area that includes a number of small trees. The proposed single storey kitchen/dining extension and the glazed link to the existing house would be within the garden. The glazed link would occupy the space at ground floor between the two lateral chimneys, and in doing so, would create two new entrances into the existing building. These entrances would use the location of existing window openings to minimise works to the historic structural elements of the building.<sup>4</sup>
9. The existing south eastern elevation and the associated garden area can be seen in views from various points in the landscape around the appeals site, including from (field entrances on) the highway to the southwest. There are a number of other buildings and tourist related facilities in the vicinity of Dolbedwyn that are visible in many views, and would be more so in the absence of summer vegetation. However,

<sup>1</sup> Listed as 'Dolbedwin'

<sup>2</sup> Comments from the Council's Built Heritage Officer, dated 29/05/17

<sup>3</sup> Figure 27 of CPAT Report No 1461

<sup>4</sup> As shown on Figure 27 of CPAT Report No 1461

views of the south eastern elevation of the house confirm its historic architecture to be mainly seen within the context of the amenity spaces and landscape around it, and these comprise its principal setting.

10. The presence of other developments around Dolbedwyn does not disrupt this and they emphasise the lack of development to the southeast, which links to the wider rural landscape around these developments. Therefore, the early structures that include the lateral chimneys, set within their built and landscape context, are of particular importance in communicating both the special architectural and historic interest of the building. Also and in this regard, both the house and its garden contribute to the local landscape and are distinctive elements of it, which may well cause people to make a special effort to obtain views of Dolbedwyn, or stop temporarily to take them.
11. The proposal would be of a contemporary design with a shallow mono-pitch 'green' roof on the kitchen/dinner and associated boot room. In addition to the glazed link to the existing house, there would be significant levels of glazing on the southern elevations of the kitchen/dinner. These factors would help to reduce the perceived massing of the planning proposal and retain some views of south eastern elevation. However when seen within the context of the existing built form, the footprint of the proposal would result in the overall scale of the extension being very significant and this would be apparent in views of the listed building. The effect of screening and diluting the predominance of the historic architecture would be much greater than that from the presence of existing vegetation.
12. The use of contemporary architectural forms and materials would ensure that the extension is clearly defined, it would not seek to imitate the existing architecture and it could be easily removed. However, the planning permission sought would be a permanent one. The scale of the proposed forms and the resulting amount of the new materials within the immediate setting of Dolbedwyn would cause the extension to conspicuously compete with, rather than complement, the historic architecture of the listed building.
13. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), requires the decision maker, in considering whether to grant listed building consent, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses. Section 66(1) of the Act requires a similar approach in considering whether to grant planning permission for development which affects a listed building or its setting.
14. Some of the proposed works are intended to reveal original features. However, any such benefits would be outweighed by the scale, form and position of the proposed extension, which would cause the strength of the contribution from the lateral chimneys to the special architectural and historic interest of Dolbedwyn to be significantly reduced.
15. If the works proposed for the listed building consent were to be carried out in the absence of the extension, they would disrupt the cohesive appearance of the south eastern elevation and would fail to preserve the special architectural or historic interest of the building. Together, the schemes would also appreciably diminish and fail to preserve the setting of the building in important views that reveal the significance of the heritage asset. Given the nature of the appeals schemes and the proposed location of the extension, it would not be possible to mitigate or notably reduce these effects.

16. For these reasons, the proposed extension would be unacceptably harmful to the character and appearance of Dolbedwyn and the locality. This conflicts with UDP Policies GP1 and HP16 which are permissive of development proposals for house extensions that are, amongst other things, of a design, layout, size, scale, mass and materials that complements and where possible enhances the character of the existing building and the surrounding area. It also conflicts with UDP Policy ENV 14, which is not permissive of development that would unacceptably adversely affect a listed building or its setting, and in this respect UDP Policy SP3, and the relevant parts of Planning Policy Wales – 9th edition ('PPW').
17. Technical Advice Note 24: *The Historic Environment* ('TAN 24') notes that many listed buildings can sustain a degree of sensitive alteration and extension to accommodate continuing or new uses. For the reasons above, the proposals would not be a well-designed intervention at Dolbedwyn and within its setting.

#### *Other matters*

18. I note the appellant's have sought to preserve Dolbedwyn and its historic interest, and the appeals proposal would provide occupiers of the house with significant areas of additional living space. I also note that the appellants engaged in pre-application discussions with the Council. However, the appeals fall to be considered on their own merits. In the absence of the appeals schemes, Dolbedwyn in its current form would continue to provide adequate family living accommodation, and its social, cultural, environmental and economic conditions would be retained.
19. Appeal documentation refers to an alternative location for a kitchen extension to the north east of the house and during the site visit an area was highlighted next to the north east gable of Dolbedwyn. A proposal in that location: would benefit from the presence of the existing doorway through the gable; it could continue development along the predominant long axis of Dolbedwyn; it would be away from the important features on the south eastern elevation; and, it would not be as apparent in many views of the building. However, any proposal for change in that location would be considered on its individual merits. My decisions for the current appeals only concern the works as described at the beginning of this letter.

#### **Conclusion**

20. All representations in these cases have been taken into account. The works for which listed building consent is sought are those associated with the proposed extension of Dolbedwyn. For the reasons above, the Appeal A and B schemes would fail to preserve both Dolbedwyn and its setting, and features of special architectural and historic interest that the listed building possesses.
21. The proposed extension conflicts with UDP Policies GP1, HP16, ENV 14, SP3, the relevant parts of PPW and no matters, including the scope of possible planning conditions, have been found to outweigh the identified failure, harm and policy conflict.
22. TAN 24 notes that changes in the historic environment are inevitable, but in these cases the changes would fail to preserve the building and its setting and features of special architectural and historic interest that it possesses. Accordingly, I conclude that both Appeal A and Appeal B should be dismissed.



23. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Clive Sproule*

INSPECTOR

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



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## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 29/09/17

gan Clive Sproule BSc MSc MSc  
MRTPI MIEnvSci CEnv

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 20.11.2017

## Appeal Decision

Site visit made on 29/09/17

by Clive Sproule BSc MSc MSc  
MRTPI MIEnvSci CEnv

an Inspector appointed by the Welsh Ministers

Date: 20.11.2017

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**Appeal Ref: APP/T6850/A/17/3180737**

**Site address: Sarn Meadow, Gwreiddyn Lane, Guilsfield, Welshpool SY21 9DT**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Chris Wright against the decision of Powys County Council.
  - The application Ref P/2016/0985, dated 13/09/16, was refused by notice dated 20/07/17.
  - The development proposed is residential development, together with improvement to existing vehicular access and formation of a pavement.
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### Decision

1. For the reasons that follow, the appeal is dismissed.

### Procedural matter

2. The application was made in outline with all matters, except access, reserved for determination at a later date.

### Main Issue

3. The main issue is considered to be the effect of the development proposed on the character and appearance of the locality.

### Reasons

#### *Character and appearance*

4. Guilsfield is a large village with development that extends along and out from a number of highways in the locality. This pattern of development has resulted in clearly defined edges to the village which are apparent as you move around it. The village is surrounded by open countryside that has occasional development within it. Typically, I found the rural development outside the village to be agricultural or single dwellings.
  5. Sarn Meadow is a single dwelling within a roughly rectangular 0.4 Ha plot that is accessed from Gwreiddyn Lane. The application was made on the basis of providing five additional dwellings on the plot. The Council Officer's reports on the application note: areas of planning policy compliance; the appeal site to be approximately 80m
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from the settlement boundary of the village as set out in the *Powys Unitary Development Plan 2001-2016* – adopted March 2010 ('UDP'); and, as the proposal would be a departure from the UDP, it should only be permitted where material considerations are found to outweigh the conflict with the development plan.

6. The appeal scheme departs from the UDP by being outside the settlement development boundary that is the subject of UDP Policy HP4 and failing to comply with UDP Policy HP6. UDP Policy HP6 is only permissive new dwellings in the open countryside that would be affordable housing, or dwellings for agriculture or forestry uses, or associated with a suitable rural enterprise. The appeal scheme would not be for one of these, and it is clear from the supporting text to UDP Policy HP6 that the policy seeks to protect the character and appearance of the countryside.
7. The UDP is now beyond the period for which it planned, which could reduce the weight attributed to policies that look to an out-of-date evidence base, or that are no longer consistent with *Planning Policy Wales – 9<sup>th</sup> edition* ('PPW'). However, on this matter it is apparent that the delivery of sustainable development underpins the UDP's policies and this is consistent with PPW.
8. PPW confirms "sustainable development" to mean the process of improving the economic, social, environmental and cultural well-being of Wales, and that the planning system provides for a presumption in favour of sustainable development. PPW promotes sustainability through good design, highlighting that design goes beyond aesthetics to matters relevant to the consideration of sustainable development, and this is reflected in Technical Advice Note (TAN) 12: *Design*.
9. The Sarn Meadow plot has a frontage onto Gwreiddyn Lane. A field wraps around the other three sides of the plot, and also forms the highway boundary on one side of the junction of Gwreiddyn Lane and the B4392. Gwreiddyn Lane is a quiet narrow rural highway, whereas the B4392 is a much busier road that carries traffic to and from Guilsfield. In addition to development on the Sarn Meadow plot, the proposal would extend the existing footway on the edge of Guilsfield along the B4392 to the junction with Gwreiddyn Lane.
10. The Council Officer's report on the application noted the land around Sarn Meadow to be domestic garden, hardstanding, a pond and agricultural land. Unlike the plot of Sarn Meadow, the field has irregular boundaries that are with two highways, a watercourse and an area of land to the north that also contains a rural dwelling. At present, this watercourse and the land immediately around it provide a (flood zone and) natural boundary to development within the village, and the appeal site lies beyond it. This causes the Sarn Meadow plot to be distinct and separate from the village.
11. A higher density of development at Sarn Meadow reasonably would be expected to emphasise the inset rectangular plot boundary and its divergence from the historic field patterns around it. The separation of the proposed dwellings from the village would be evident in views from the highway and the edge of the village. Application drawings show future planting in the field, but details of this are yet to be known and the planting of trees between the site and the village would be likely to reinforce the visual separation. In any event, the appeal proposal would not appear as a logical addition to the settlement, or to the occasional development in the countryside around it.

12. As such and in contrast to existing development on the edge of the village, the proposed development would not sit comfortably in this rural landscape and would be unacceptably harmful to its character and appearance. This conflicts with UDP Policies GP1 and ENV2 which are only permissive of development that would complement and be appropriate to the character of the locality, and in this regard, the appeal proposal conflicts with the relevant parts of PPW and TAN12.

#### *Other matters*

13. The appellant seeks great weight to be given to the Council Officer's assessment, which took a view on matters that included character and appearance and led to a recommendation of approval. However, a conclusion in relation to character and appearance is a matter of judgement, as is the weight to be attributed to conflict with adopted planning policy and other matters. The application was determined by the Council which, in exercising its judgement, came to a different view on these.

#### The site access and footpath

14. Sarn Meadow already has a residential access onto Gwreiddyn Lane, and the proposed access would be shared by all of the dwellings on the plot. The proposed access would provide adequate visibility splays along Gwreiddyn Lane, and given nature of the highway and its traffic, the proposed access would provide a safe and suitable access to the development, as would the proposed additional length of footway.

#### Housing provision

15. Paragraphs 8.1 and 8.2 of Technical Advice Note (TAN) 1: *Joint Housing Land Availability Studies* (January 2015) address *Transitional arrangements* where a local planning authority does not have an adopted Local Development Plan and cannot demonstrate a five year supply of housing. When the Council determined the application it referred to data from 01/04/16 that indicated there to be 2.2 years housing land supply in Powys. TAN1 paragraphs 8.1 and 8.2 do not deal with the weight to be attributed to the lack of a five year housing land supply.
16. Paragraph 6.2 of TAN1 states that when housing land supply is below the five year requirement, "*...the need to increase supply should be given considerable weight when dealing with planning applications provided that the development would otherwise comply with development plan and national planning policies.*" As noted above, the appeal proposal conflicts with development plan and national planning policies. Therefore, while the appeal scheme would provide an additional five dwellings that would contribute to meeting the housing need, this only provides limited weight in favour of the proposal.

#### Precedent

17. Each application and appeal falls to be determined on its individual merits. However, evidence refers to other housing sites outside settlement boundaries that have been granted planning permission by the Council. Full details regarding these other sites have not been provided, nor has it been shown that the circumstances of the other sites are comparable to those of the current appeal site. As a consequence, these other sites do not act as a precedent in this case.

#### Sustainable development

18. In regard to sustainable development, the cultural impact of the appeal proposal would appear to be neutral. While the close proximity of the site to Guilsfield would ensure that services within the village would be accessible to occupiers of the

proposed dwellings, the above main issue confirms that the proposed development would be harmful to the environment in relation to its character and appearance. There would be social benefit from the appeal scheme through the provision of new homes and the support that occupiers of the dwellings would provide for local services. Also, there would be economic benefit from the construction and occupation of the dwellings. However, these benefits could also be achieved from policy compliant development elsewhere, and it has not been shown that less harmful sites are unavailable. Consequently, these benefits only provide limited weight in favour of the appeal scheme.

### **Conclusion**

19. For the reasons above, the proposed development would conflict with UDP policies HP4, HP6, GP1 and ENV2, and the relevant parts of PPW and TAN12. All representations in this case have been taken into account and no matters, including the scope of possible planning conditions, have been found to outweigh the significant weight attributed to the identified harm and policy conflict. Accordingly, the proposal would not be a sustainable form of development and the appeal should be dismissed.
20. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objective of supporting safe, cohesive and resilient communities.

*Clive Sproule*

INSPECTOR